

## Joint Standing Committee on Criminal Justice

**LD 48**

**An Act to Amend the Definition of "Traffick" in the Drug Laws**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENOIT	ONTP	

LD 48 proposed to amend the Maine Criminal Code by excluding the activity of growing or cultivating marijuana from the definition of "traffick." LD 2012, An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana, Public Law 1999, chapter 374 incorporates LD 48.

**LD 49**

**An Act to Amend the Drug Laws Related to Possession of a Firearm**

**PUBLIC 342**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENOIT	OTP-AM	S-278

LD 49 proposed to amend the criminal code by excluding the mere possession of a firearm as an aggravating factor in an offense of trafficking or furnishing scheduled drugs. This bill proposed to require that the firearm be somehow directly related to the criminal activity; the defendant must have used, carried or been armed with a firearm while engaged in trafficking or furnishing a scheduled drug in order for the offense to be elevated to the aggravated category. This change to the criminal code would make Maine law consistent with federal law, 18 United States Code, Section 924 (1976), which aggravates drug offenses whenever a defendant "uses or carries" a firearm, but not when a firearm is merely somewhere on the premises when a drug offense occurs.

**Committee Amendment "A" (S-278)** proposed to specify that for possession of a firearm to be an aggravating factor in an offense of trafficking or furnishing scheduled drugs, a person must possess the firearm in furtherance of the offense. This is consistent with 18 United States Code, Section 924(c)(1)(A). The amendment also proposed to add a fiscal note to the bill.

### *Enacted law summary*

Public Law 1999, chapter 342 amends the criminal code by specifying that for possession of a firearm to be an aggravating factor in an offense of trafficking or furnishing scheduled drugs, a person must possess the firearm in furtherance of the offense. This is consistent with 18 United States Code, Section 924(c)(1)(A).

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 342 and other drug laws were enacted simultaneously.

**LD 65**

**An Act to Increase the Length of Probation for Domestic Violence from one Year to 2 Years**

**DIED IN  
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TOBIN J	ONTP MAJ	
DAVIS P	OTP-AM MIN	

LD 65 proposed to increase the period of probation for domestic abuse from one year to 2 years.

**Committee Amendment "A" (H-429)** was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to add an appropriation and a fiscal note to the bill. This amendment was not adopted.

<b>LD 78</b>	<b>Resolve, Establishing the Replacement Simultaneously of State Correctional Facilities in Cumberland and Washington Counties as the First Priority If Additional General Obligation Bond Issues or Lease Appropriation Bonds are Authorized by the Legislature</b>	<b>RESOLVE 17</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAGLEY	OTP-AM	H-150
CASSIDY		

LD 78 proposed to authorize the Maine Governmental Facilities Authority to issue securities in an amount up to \$17,400,000 for construction of a replacement for the Downeast Correctional Facility in Washington County.

**Committee Amendment "A" (H-150)** proposed to retitle and replace the bill with a resolve that sets the replacement simultaneously of new state correctional facilities in Cumberland and Washington counties as the first priority of the State, if any new general obligation bonds or lease appropriation bonds are authorized. For purposes of this resolve, new state correctional facilities mean those for which bonds may be issued following the issuance of bonds for correctional facilities construction projects located in Warren and Windham, pursuant to Public Law 1997, chapter 752.

***Enacted law summary***

Resolve 1999, chapter 17 authorizes the Maine Governmental Facilities Authority to issue securities in an amount up to \$17,400,000 for construction of a replacement for the Downeast Correctional Facility in Washington County. For purposes of this resolve, new state correctional facilities mean those for which bonds may be issued following the issuance of bonds for correctional facilities construction projects located in Warren and Windham, pursuant to Public Law 1997, chapter 752.

<b>LD 82</b>	<b>An Act to Amend the Laws Prohibiting Terrorizing</b>	<b>PUBLIC 433</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN L	OTP-AM	H-20

LD 82

Current law includes in the crime of criminal terrorizing a threat of violence whose natural and probable consequence is to cause the evacuation of a building, place of assembly or facility of public transport. LD 82 proposed to expand the

crime to include such a threat whose natural and probable consequence is to secure buildings that cannot be evacuated, such as prisons, nursing homes or hospitals.

**Committee Amendment "A" (H-20)** proposed to replace the bill and include in the crime of criminal terrorizing a threat whose natural and probable consequence is to cause the occupants of any building to be moved to or required to remain in a designated secured area. The amendment also proposed to add a fiscal note.

*Enacted law summary*

Public Law 1999, chapter 433 includes in the crime of criminal terrorizing a threat whose natural and probable consequence is to cause the occupants of any building to be moved to or required to remain in a designated secured area.

**LD 84**

**An Act to Make It a Crime to Solicit a Child by Means of Computer to Commit a Prohibited Act**

**PUBLIC 349**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY	OTP-AM	H-449

LD 84 proposed to establish the crime of solicitation of a child by a computer for the purpose of committing a prohibited act. As proposed, a person is guilty of soliciting a child by a computer to commit a prohibited act if the person used a computer to knowingly solicit, entice, persuade or compel another person to meet with that person for the purpose of engaging in a prohibited sexual act, sexual contact or sexual exploitation with that person.

The bill also proposed to make subject to the asset forfeiture laws computers and computer equipment that are used or attempted to be used for the solicitation of a child to commit a prohibited act.

**Committee Amendment "A" (H-449)** proposed to clarify the title and reduce from 16 years to 14 years the age the offender knows or believes the potential victim to be. The amendment proposed to reduce the class of the crime from a Class C crime to a Class D crime. The amendment also proposed to add a fiscal note to the bill.

*Enacted law summary*

Public Law 1999, chapter 349 establishes the Class D crime of solicitation of a child by a computer for the purpose of committing a prohibited act. A person is guilty of soliciting a child by a computer to commit a prohibited act if the person uses a computer to knowingly solicit, entice, persuade or compel another person to meet with that person for the purpose of engaging in a prohibited sexual act, sexual contact or sexual exploitation with that person.

Public Law 1999, chapter 349 also makes subject to the asset forfeiture laws computers and computer equipment that are used or attempted to be used for the solicitation of a child to commit a prohibited act.

**LD 99**

**An Act to Require Auctions for Confiscated Firearms**

**PUBLIC 47**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH	OTP-AM    MAJ	H-39
MURRAY	ONTP      MIN	

LD 99 proposed to apply to abandoned, lost or stolen firearms retained by law enforcement agencies and to firearms retained by law enforcement agencies under forfeiture statutes. The bill proposed to:

1. Require law enforcement agencies to publicly auction such firearms each year and to permit them to contract with private entities to conduct these auctions;
2. Eliminate a related provision of current law that permits the retention of firearms for training purposes and the destruction of firearms;
3. Permit law enforcement agencies to retain the proceeds of firearm auctions; and
4. Permit the Attorney General, in accordance with these provisions, to adopt or amend rules pertaining to the sale, use and disposal of firearms and ammunition.

**Committee Amendment "A" (H-39)** proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to permit law enforcement agencies to auction abandoned, lost, stolen or forfeited firearms and ammunition to the public. Currently, law enforcement agencies may auction confiscated firearms to federally licensed firearms dealers. The amendment also proposed to add a fiscal note to the bill.

#### *Enacted law summary*

Public Law 1999, chapter 47 permits, but does not require, law enforcement agencies to auction abandoned, lost, stolen or forfeited firearms and ammunition to the public, as well as to federally licensed firearms dealers.

### **LD 111                      An Act to Amend the Laws Regarding Penalties for the Purchase of Cigarettes by a Minor                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AHEARNE PENDLETON	ONTP	

LD 111 proposed to require the suspension of a minor's motor vehicle operator's license for up to 90 days if the minor fails to pay a forfeiture imposed for the illegal possession of tobacco.

### **LD 130                      An Act to Prevent Children from Acquiring Gunpowder                      PUBLIC 11**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY MCALEVEY	OTP	

LD 130 proposed that a person is guilty of endangering the welfare of a child, a Class D crime, if the person knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age gunpowder or smokeless powder unless furnished by a parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian for use in a supervised manner.

This bill was submitted on behalf of the Department of Public Safety.

***Enacted law summary***

Public Law 1999, chapter 11 amends the endangering the welfare of a child statute by making a person who knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age gunpowder or smokeless powder. It is an affirmative defense to prosecution that the defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished a child under 16 years of age gunpowder or smokeless powder for use in a supervised manner.

**LD 144**

**An Act to Make Corrections to the Laws Governing the County Jail  
Prisoner Support and Community Corrections Fund**

**INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E KIEFFER	OTP-AM	

LD 144 proposed to direct the Department of Corrections to include in its proposed current services budget estimates the amount necessary to fully fund the County Jail Prisoner Support and Community Corrections Fund at current levels, based on the United States Consumer Price Index established by the United States Department of Labor, Bureau of Labor Statistics.

The bill also proposed to include unallocated language that expresses the Legislature's intent that in the Governor's current services recommendations the Governor provide for full funding of the County Jail Prisoner Support and Community Corrections Fund, adjusted by a factor equal to the percent change in the United States Bureau of Labor Statistics' Consumer Price Index. As proposed, if the Governor's recommendations do not include full funding, then the Governor shall submit a report to the joint standing committee of the Legislature having jurisdiction over corrections and criminal justice matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs explaining why the Governor's legislation differs from the Department of Corrections' budget submission.

**Committee Amendment "A" (H-40)** proposed to direct the Department of Corrections, beginning July 1, 2002 and annually thereafter, to distribute the County Jail Prisoner Support and Community Corrections Fund to counties based on the percent distribution of actual funds reimbursed to counties pursuant to the Maine Revised Statutes, former Title 34-A, section 1210 in fiscal year 1997-98. The amendment proposed to clarify that each county's community corrections program account is nonlapsing. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

**LD 153**

**An Act to Increase the Fee Charged by Bail Commissioners**

**PUBLIC 15**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO	OTP	

LD 153 proposed to increase the fee a bail commissioner may charge from \$25 to \$40.

***Enacted law summary***

Public Law 1999, chapter 15 increases from \$25 to \$40 the fee a bail commissioner may charge.

**LD 195****An Act to Prohibit Sex Offenders from Being near Schools or Day Care Facilities****ONTP**Sponsor(s)  
MACKINNONCommittee Report  
ONTPAmendments Adopted

LD 195 proposed to prohibit a sex offender from residing or loitering within 1,000 feet of a school or day care facility.

**LD 201****An Act to Amend the Maine Criminal Justice Academy Requirements for Candidates for Sheriff****PUBLIC 338**Sponsor(s)  
GOODWINCommittee Report  
OTP-AMAmendments Adopted  
H-560

LD 201 proposed to remove the requirement that a sheriff or candidate for sheriff be certified by the Maine Criminal Justice Academy.

**Committee Amendment "A" (H-184)** proposed to replace and retitle the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to repeal the requirement that a candidate for sheriff qualify for an executive certificate under the Maine Criminal Justice Academy standards and instead require a candidate to meet only the Maine Criminal Justice Academy basic law enforcement training standards or the basic corrections training standards. This amendment was not adopted.

**Committee Amendment "B" (H-185)** proposed to replace and retitle the bill and was the minority report of the Joint Standing Committee on Criminal Justice. This amendment proposed to repeal the existing requirement that a candidate for sheriff qualify for an executive certificate under the Maine Criminal Justice Academy standards and instead require a candidate to hold current certification in basic law enforcement training under the Maine Criminal Justice Academy standards and to have at least 5 years of experience as a law enforcement officer. The amendment also proposed to repeal the grandfather provision after current terms of office are served and require all who seek to be candidates for reelection to meet the new requirements. This amendment was not adopted.

**Committee Amendment "C" (H-560)** proposed to replace and retitle the bill. The amendment proposed to repeal the requirement that a candidate for sheriff qualify for an executive certificate under the Maine Criminal Justice Academy standards and instead require a candidate to meet only the Maine Criminal Justice Academy basic law enforcement training standards or meet the basic corrections training standards and have 5 years of supervisory employment experience. Committee Amendment "C" was a compromise that replaced Committee Amendments "A" and "B".

***Enacted law summary***

Public Law 1999, chapter 338 removes the requirement that a sheriff or candidate for sheriff be certified by the Maine Criminal Justice Academy and repeals the requirement that a candidate for sheriff qualify for an executive certificate under the Maine Criminal Justice Academy standards and instead requires a candidate to meet only the Maine Criminal Justice Academy basic law enforcement training standards or meet the basic corrections training standards and have 5 years of supervisory employment experience.

**LD 211****An Act to Criminalize the Negligent or Purposeful Transmission of HIV****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHIELDS	ONTP      MAJ OTP-AM    MIN	

LD 211 proposed to make the transmission of HIV a crime. As proposed, a person who knows or has reason to believe that the person is infected with HIV commits a Class A crime if that person transmits HIV to another person intentionally, knowingly, recklessly or with criminal negligence.

**Committee Amendment "A" (H-81)** was the minority report of the Joint Standing Committee on Criminal Justice and proposed to add a fiscal note to the bill. This amendment was not adopted.

## LD 224                      An Act to Prohibit the Misuse of Identification                      PUBLIC 190

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERDIERE MILLS	OTP-AM	H-183 H-315   POVICH

LD 224 proposed to create the Class D crime of misuse of legal identification. As proposed, the crime is committed if a person intentionally or knowingly presents or uses a form of legal identification that is stolen or forged.

The bill proposed that a person who has suffered economic loss as the result of this crime may receive restitution from the offender under current provisions of the Maine Criminal Code. The bill also proposed to make it a defense to a civil action seeking monetary damages that the action is based on the misuse of a legal identification for which another person has been convicted.

**Committee Amendment "A" (H-183)** proposed to replace the bill. The amendment proposed to repeal current law regarding misuse of credit identification and enact a broader Class D crime regarding misuse of identification. Specifically, the amendment proposed to criminalize misuse of credit identification and debit cards and add a provision that criminalizes any use of a form of legal identification that a person is not authorized to use. The amendment also proposed to make it a defense to a civil action seeking monetary damages that the action is based on the misuse of a form of legal identification for which another person has been convicted. The amendment also proposed to add a fiscal note.

**House Amendment "A" to Committee Amendment "A" (H-315)** proposed to clarify that the defense to a civil action for damages arising from the misuse of identification may be raised only by the person whose identification was misused.

### *Enacted law summary*

Public Law 1999, chapter 190 repeals current law regarding misuse of credit identification and enacts a broader law regarding misuse of identification. A person is guilty of committing the new Class D crime if the person misuses credit identification, debit cards and any other form of legal identification that a person is not authorized to use. Public Law 1999, chapter 190 also makes it a defense to a civil action for the person whose identification was misused that the action is based on the misuse of a form of legal identification for which another person has been convicted.

## LD 244                      An Act to Permit the Release and Publication of the Name of a Juvenile                      ONTP 14 Years of Age or Older Who Commits a Crime

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CAREY	ONTP	

LD 244 proposed to allow the name of a juvenile charged with a crime and the juvenile crime or crimes committed to be revealed if the juvenile was at least 14 years of age at the time of the offense.

**LD 258**                      **An Act to Make Purposeful Misrepresentation and Stolen Identity of Another Person a Class C Crime**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOOLEY	ONTP	

LD 258 proposed to create the Class C crime of misuse of legal identification. As proposed, the crime is committed if a person intentionally or knowingly presents or uses a form of legal identification that is stolen or forged. LD 224, An Act to Prohibit the Taking of Another Person's Legal Identification, Public Law 1999, chapter 190 incorporates concepts from LD 258.

**LD 266**                      **An Act to Require Records Checks for Persons Providing Direct Care to Clients of the Department of Mental Health, Mental Retardation and Substance Abuse Services**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER G LAWRENCE		

LD 266 proposes to require criminal history record checks for direct care employees and prospective employees of the Department of Mental Health, Mental Retardation and Substance Abuse Services and facilities and entities providing services to clients of the department. The bill proposes to provide for the confidentiality of criminal history record information and access and review for the person whose record is checked. The bill also proposes to require rulemaking as necessary to implement the new provision.

This bill has been carried over to the Second Regular Session.

**LD 268**                      **An Act to Prohibit the Misuse of Laser Pointers**                      **PUBLIC 163  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
USHER O'GARA	OTP-AM	H-300

LD 268 proposed to make it a Class D crime for a person not authorized by law to intentionally point a laser device at another person. This prohibition of the use of laser devices is similar to provisions in current law pertaining to the use of disabling chemicals such as mace and pepper spray. The bill was proposed as emergency legislation due to the health dangers and safety risks posed by the misdirecting of laser devices at people.



**Committee Amendment "A" (H-300)** proposed to replace the bill. The amendment proposed to redefine the offense "criminal use of a laser pointer." As proposed, a person is guilty of criminal use of a laser pointer if:

1. The person intentionally, knowingly or recklessly points a laser pointer at another person, while the laser pointer is emitting a laser beam, and causes bodily injury to that other person;
2. That other person is a law enforcement officer in uniform; or
3. The person causes a reasonable person to suffer intimidation, annoyance or alarm.

The amendment proposed to specify that it is a defense to a prosecution under this section that at the time of the laser pointer's use the person who intentionally, knowingly or recklessly pointed a laser pointer at another person was justified in threatening or using physical force upon the other person. The amendment also proposed to allow the State to confiscate laser pointers. The amendment also adds a fiscal note.

***Enacted law summary***

Public Law 1999, chapter 163 creates the crime of criminal use of laser pointers. A person is guilty of criminal use of a laser pointer if:

1. The person intentionally, knowingly or recklessly points a laser pointer at another person, while the laser pointer is emitting a laser beam, and causes bodily injury to that other person;
2. That other person is a law enforcement officer in uniform; or
3. The person causes a reasonable person to suffer intimidation, annoyance or alarm.

Violation of 1 or 2 above is a Class D crime and violation of 3 is a Class E crime.

Public Law 1999, chapter 163 also specifies that is a defense to a prosecution that at the time of the laser pointer's use the person who pointed a laser pointer at another person was justified in threatening or using physical force upon the other person. Public Law 1999, chapter 163 further allows the State to confiscate laser pointers that constitute the basis for conviction.

Public Law 1999, chapter 163 was enacted as an emergency measure effective May 13, 1999.

**LD 272**

**Resolve, Establishing the Commission to Study High-speed Chases and  
Emergency Responses**

**INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN O'GARA	OTP-AM	

LD 272 proposed to establish the Commission to Study High-speed Chases. As proposed, the commission would have consisted of the following 11 members: 2 Legislators, 2 members of the public and 7 law enforcement officials.

The bill proposed to require that the commission study current law enforcement policies governing the use of high-speed chases, the history of high-speed chases in Maine and other states' use of high-speed chases. The bill proposed to require that the commission report its findings to the Joint Standing Committee on Criminal Justice by December 1, 1999. The bill further proposed that the Joint Standing Committee on Criminal Justice may submit legislation in the Second Regular Session of the 119th Legislature to implement the commission's recommendations.

**Committee Amendment "A" (H-63)** proposed to rename the resolve and make changes to incorporate into the scope of the study commission review of emergency responses as well as high-speed chases by law enforcement officers. The amendment proposed to expand membership of the commission to 13 members. The amendment also proposed to remove the Department of Public Safety from staffing duties and provide that, upon approval from the Legislative Council, the Office of Policy and Legal Analysis provide staffing resources to the commission. The amendment also proposed to add an appropriation and a fiscal note to the resolve.

**LD 300**

**An Act to Require Life Imprisonment for Habitual Violent Offenders**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE CAREY	ONTP	

LD 300 proposed to define "habitual violent offender" as a person who has 3 convictions for certain violent offenses including murder, felony murder, manslaughter, aggravated assault, elevated aggravated assault, gross sexual assault, sexual abuse of a minor, unlawful sexual contact, sexual exploitation of a minor, kidnapping, criminal restraint, burglary, robbery, arson, any other offense involving the actual or threatened use of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical harm upon another person. As proposed, a habitual violent offender must be sentenced to mandatory life imprisonment without probation or any other form of release from confinement.

**LD 307**

**An Act to Establish the Crime of Aggravated Criminal Trespass**

**PUBLIC 434**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGLEY	OTP-AM	S-9

LD 307 proposed to create the Class C crime of aggravated criminal trespass. As proposed, a person is guilty of aggravated criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters any dwelling place between the hours of sunset and sunrise and, at the time of the offense, has a prior conviction for burglary or criminal trespass.

**Committee Amendment "A" (S-9)** proposed to replace the bill and create 2 Class C crimes of aggravated criminal trespass. The amendment proposed to increase the penalty when a person commits a violent offense or sexual assault in the course of a trespass in a dwelling place. The amendment also proposed to increase the penalty when the offender has repeatedly engaged in similar conduct in the past. This repeat offender provision is similar to those for repeat violent offenders and repeat theft offenders.

The amendment also proposed to add a fiscal note.

*Enacted law summary*

Public Law 1999, chapter 434 creates 2 Class C crimes of aggravated criminal trespass. Public Law 1999, chapter 434 increases the penalty when a person commits a violent offense or sexual assault in the course of a trespass in a dwelling place and increases the penalty when the offender has repeatedly engaged in similar conduct in the past.

**LD 308****An Act to Implement the Recommendations of the 118th Legislative Joint CARRIED OVER  
Select Committee to Implement a Program for the Control, Care and  
Treatment of Sexually Violent Predators**

Sponsor(s)  
MURRAY  
THOMPSON

Committee Report

Amendments Adopted

LD 308 comprises the unanimous statutory recommendations of the Joint Select Committee to Implement a Program for the Control, Care and Treatment of Sexually Violent Predators, created by Joint Order, House Paper 1653, 118th Maine Legislature. The complete recommendations and background information are contained in the Select Committee's final report.

This bill proposes to make a number of changes to the current punishment provisions in the Maine Criminal Code, Part III in an effort to allow courts to deal more effectively with the dangerous sexual offender. These changes provide for longer terms of imprisonment, longer periods of probation and the imposition of supervised release when a term of imprisonment expires.

The bill proposes to define what is meant by "dangerous sexual offender." The definition targets those sexual offenders who commit a new gross sexual assault under the Maine Revised Statutes, Title 17-A, section 253 after having been previously convicted and sentenced for a serious sexual assault. Because prior intervention of the criminal justice system has failed to deter the offender and because the offender's own repetitive criminal behavior currently serves as the most accurate indicator of future dangerousness, the new sentencing options are consistent with the "just deserts" philosophy of the Maine Criminal Code and serve primarily to enhance public safety through restraint and post-release management. The bill proposes 4 changes respecting punishment for the dangerous sexual offender.

First, Title 17-A, section 1252, subsection 4-B removes the current ceiling for terms of imprisonment for the "dangerous sexual offender." A court is authorized to impose a straight term of imprisonment or a split term of imprisonment of "any term of years."

Second, Title 17-A, section 1202, subsection 1-A removes the current probation period caps for the "dangerous sexual offender." A court is authorized to impose a period of probation of "any term of years."

Third, Title 17-A, chapter 50 proposes a new post-release mechanism identified as "supervised release." Supervised release is used in conjunction with the imposition of a straight term of imprisonment and is modeled to some degree upon federal law regarding supervised release (see 18 U.S.C. §3583). A term of supervised release of "any term of years" may be imposed by a court at the time of imposing a straight term of imprisonment. Sanctioning for a violation of a supervised release operates as does sanctioning for a violation of probation. As with probation, the sanction imposed upon revocation is intended to sanction the violator for failing to abide by the court-ordered conditions. Even in the context of new criminal conduct, the violator is sanctioned for the breach of trust, leaving the actual punishment for any new underlying criminal conduct to the court ultimately responsible for imposing punishment for that new crime.

Fourth, the bill replaces Title 17-A, section 1203, subsection 1 with subsection 1-A to allow the court to revoke probation if, during the initial unsuspended portion of the term of imprisonment, a person sentenced as a "dangerous sexual offender" refuses to actively participate in a sex offender treatment program, in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections. By virtue of new Title 17-A, section 1233, supervised release may be revoked by a court before the completion of the straight term of imprisonment.

Finally, the bill also provides for the inclusion of a period of supervised release after imprisonment for any person convicted of a Title 17-A, section 253 offense. Unlike the dangerous sexual offender group, however, the length of the

period authorized depends upon the class of the gross sexual assault for which the person is convicted (up to 10 years for a Class A section 253 violation and up to 6 years for a Class B or Class C section 253 violation). Additionally, as is true of the dangerous sexual offender group, the time of additional imprisonment to serve may equal all or part of the period of supervised release with no credit being given for any time actually served on supervised release, but may not exceed 1/3 of the straight term of imprisonment imposed.

**Committee Amendment "A" (S-279)** proposes to strike sections 2 and 3 of the bill and changes the history line of section 5 of the bill to account for changes made by Public Law 1999, chapter 24, sections 2 and 3. The amendment also proposes to add a fiscal note to the bill.

LD 308 was recommitted to committee and carried over to the Second Regular Session of the 119th Legislature.

**LD 322**

**An Act to Amend the OUI Laws Related to License Suspensions**

**ONTP**

<u>Sponsor(s)</u> BENOIT	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 322 proposed to allow second-time and third-time OUI offenders to receive work-restricted licenses upon a showing of need and that those offenders have completed concrete steps in rehabilitation. The bill proposed to require second-time and third-time OUI offenders with work-restricted licenses to display a decal visible to other motorists and to submit to random stops and testing by law enforcement personnel.

**LD 338**

**An Act to Strengthen Manslaughter and Homicide Penalties When the Victim is Under 16 Years of Age**

**ONTP**

<u>Sponsor(s)</u> WATERHOUSE CAREY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 338 proposed to amend the crime of murder to include causing the death of a child by engaging in a pattern or practice of assault or torture of the child. A similar bill, LD 474, An Act Relating to the Crime of Murder and to the Murder of Children, was carried over to the Second Regular Session of the 119th Legislature.

**LD 344**

**An Act to Make a Traffic Infraction That Results in Bodily Injury to the Offending Driver or Another Person a Class E Crime**

**ONTP**

<u>Sponsor(s)</u> GOOLEY AMERO	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 344 proposed to make traffic infractions that result in bodily injury to the operator or another person a Class E crime.

**LD 353**                      **An Act Regarding the Administration of Polygraph Tests to Prospective Law Enforcement Personnel**                      **CARRIED OVER**

<u>Sponsor(s)</u> MUSE		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 353 proposes to eliminate employees of or applicants for employment with law enforcement agencies from the list of exceptions for which employers may request polygraph tests. The bill proposes that only law enforcement officers or applicants for employment as law enforcement officers may be asked to undergo polygraph tests.

This bill has been carried over to the Second Regular Session.

**LD 354**                      **An Act to Establish Certain Crimes of Domestic Violence**                      **CARRIED OVER**

<u>Sponsor(s)</u> MUSE DOUGLASS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 354 proposes to create 2 new offenses in the criminal code: domestic violence assault for assault against a family member and domestic violence terrorizing for terrorizing a family member. Both of these new offenses are Class D crimes, except in cases of assault by a person 18 years of age or older against a person under 6 years of age, which is a Class C crime. Both of these new offenses would require a judge, not a bail commissioner, to set bail.

This bill has been carried over to the Second Regular Session.

**LD 384**                      **An Act to Establish Victims' Rights for the Victims of Juvenile Crimes**                      **PUBLIC 280**

<u>Sponsor(s)</u> PEAVEY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-457
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LD 384 proposed to give a victim of a crime committed by a juvenile the same rights as a victim of a crime committed by an adult, in addition to any rights provided to the victim of a juvenile crime by the Maine Juvenile Code.

This bill was submitted on behalf of the Department of Corrections.

**Committee Amendment "A" (H-457)** proposed to replace the bill. The amendment proposed to give a victim of a crime committed by a juvenile the right to request to receive notification of the juvenile offender's release in addition to any rights provided to the victim of a juvenile crime by the Maine Juvenile Code. The amendment also proposed to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 280 gives a victim of a crime committed by a juvenile the right to request to receive notification of the juvenile offender's release in addition to any rights provided to the victim by the Maine Juvenile Code.

**LD 390****An Act Defining Witness, Informant and Victim for the Crime of Tampering with a Witness, Informant or Victim Under the Criminal Code****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH	ONTP	

LD 390 proposed to define the terms "witness" and "informant" under the Maine Criminal Code. This bill also proposed to clarify the term "victim" for the crime of tampering with a witness, informant, victim or juror.

**LD 398****An Act to Require the Revocation of Probation for a Person Convicted of Domestic Violence if the Person Fails to Attend a Certified Batterers' Intervention Program****DIED IN CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STANLEY	ONTP MAJ	
CATHCART	OTP-AM MIN	

LD 398 proposed to require that probation officers arrest and bring a motion to revoke the probation of a person who violates a condition of the person's probation requiring attendance in a certified batterers' intervention program.

**Committee Amendment "A" (H-430)** was the minority report. The amendment proposed to add a fiscal note to the bill. This amendment was not adopted.

**LD 433****An Act to Treat All Assaults on Law Enforcement Officers as Class C Crimes****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOOLEY	ONTP	
CAREY		

LD 433 proposed to make any assault on a law enforcement officer a Class C crime. Current law requires a law enforcement officer to suffer bodily injury for the crime of assault on an officer to have been committed. The bill proposed to expand this crime to allow offensive physical contact to meet the standard for a Class C crime.

**LD 436****An Act to Establish an Appeal Process for Concealed Firearms Permit Applications and to Grant Reciprocity to Other States****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACK	ONTP	
AMERO		

LD 436 proposed to allow appeals to the Commissioner of Public Safety of denials of concealed firearms permit applications. This bill also proposed to allow persons who are allowed to carry concealed firearms in other states to carry concealed firearms in this State without having to get a permit to do so in this State.

**LD 454**                      **An Act to Establish the Crime of Rendering a Telephone Inoperable during a Domestic Violence Incident**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MUSE DOUGLASS		

LD 454 proposes to make it a Class D crime for a person committing domestic abuse to cause a telephone to be inoperable during the commission of that abuse.

This bill has been carried over to the Second Regular Session.

**LD 457**                      **An Act to Increase the Sanctions for Criminal Mischief Within a Correctional Facility**                      **PUBLIC 458**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY FERGUSON	OTP-AM	H-149

LD 457 proposed to require a sentence for criminal mischief or any other crime involving damage or destruction of government property within a state or county correctional facility to be nonconcurrent with the offender's original sentence.

This bill was submitted on behalf of the Department of Corrections.

**Committee Amendment "A" (H-149)** proposed to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 458 requires a sentence for criminal mischief or any other crime involving damage or destruction of government property within a state or county correctional facility to be nonconcurrent with the offender's original sentence.

**LD 466**                      **An Act Concerning Payment of Medical Costs for Prisoners in County Correctional Facilities**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUGAY CASSIDY	ONTP	

LD 466 proposed to require the Department of Corrections to fully reimburse counties for costs incurred in providing medical care to prisoners who are held in county jails on state charges for more than 30 days for failure to make bail or pending trial or are held pending sentencing. The bill also proposed to allow counties to hold prisoners liable for the costs of medical treatment for medical conditions that existed before incarceration.

## **LD 474                      An Act Relating to the Crime of Murder and to the Murder of Children    CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PENDLETON AHEARNE		

LD 474 proposes to make an assault of a child 4 years of age or younger that results in the child's death punishable as murder. Current law requires a sentence of imprisonment no less than 25 years for a conviction of murder. This bill has been carried over to the Second Regular Session.

## **LD 512                      An Act to Increase the Length of Probation for a Person Convicted of Domestic Violence                      PUBLIC 492**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STANLEY	OTP-AM    MAJ OTP-AM    MAJ	H-451 S-427   MICHAUD

LD 512 proposed to allow the length of probation for a person convicted of a Class D or E crime involving domestic violence to be extended by up to one year beyond the period of probation if it is necessary for the person to complete a certified batterers' intervention program.

**Committee Amendment "A" (H-451)** proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to specify that a person who is convicted of a Class D or Class E crime involving domestic violence must be sentenced to a period of probation of 2 years, except that the period of probation must be terminated when the person completes a certified batterers' intervention program. The amendment also proposed to add an appropriation section and a fiscal note to the bill.

**Committee Amendment "B" (H-452)** proposed to replace the bill and was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to specify that a person who is convicted of a Class D or Class E crime involving domestic violence must be sentenced to a period of probation of 2 years. The amendment also proposed to specify that the probationer complete a certified batterers' intervention program during the period of probation. The amendment also proposed to add an appropriation section and a fiscal note to the bill.

**Senate Amendment "A" to Committee Amendment "A" (S-427)** proposed to remove the appropriation section that funded 4 new probation officers and their related costs.

### ***Enacted law summary***

Public Law 1999, chapter 492 requires that a person who is convicted of a Class D or Class E crime involving domestic violence must be sentenced to a period of probation of 2 years, except that the period of probation must be terminated when the person completes a certified batterers' intervention program.



**LD 530****An Act to Require the State to Pay the Salaries of Sheriffs and County Jail Employees****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS	ONTP	

LD 530 proposed to require the Department of Corrections to pay the costs of salaries and expenses for county sheriffs, deputy sheriffs and jailers, masters or keepers and all subordinate assistants and employees of the county jails as agreed upon between the Department of Corrections and each county. The bill proposed that counties remain responsible for providing suitable office space. This arrangement is similar to that of the district attorneys, whose salaries and expenses are paid for through the Office of the Attorney General's budget but whose office space is provided for by the counties.

**LD 532****An Act to Limit Children's Access to Firearms****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAND	ONTP MAJ	
NORBERT	OTP-AM MIN	

LD 532 proposed to amend the endangering the welfare of a child law. The bill proposed to add to the types of endangerment storing a firearm that is not in a locked container or does not have a trigger lock device in a place where a child is likely to gain access to the firearm. The bill is based upon Child Access Prevention laws (CAP laws) that require adults to either store loaded guns in a place that is reasonably inaccessible to children or to use a device to lock the gun. CAP laws hold the adult owner criminally liable if a child obtains an improperly stored gun.

**Committee Amendment "A" (S-208)** proposed to amend the endangering the welfare of a child law and was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed that a person is guilty of endangering the welfare of a child if the person stores a loaded firearm in an unlocked container or without a trigger lock device and a child under 16 years of age gains access to the firearm without the permission of the child's parent or guardian. The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

**Committee Amendment "B" (S-209)** proposed to replace the bill and was the second minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to require the Department of Public Safety to coordinate and implement a one-year media campaign, beginning September 30, 1999, of written and televised public service messages that warn the public of the danger of firearms and the importance of safely storing firearms to ensure that children do not have unsupervised access to firearms. The amendment also proposed to add an appropriation section and a fiscal note. This amendment was not adopted.

**LD 546****An Act to Exempt Certain Law Enforcement Officers from the Full Course of Training at the Maine Criminal Justice Academy****CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PIEH		
PINGREE		

LD 546 proposes to exempt harbor masters and municipal shellfish conservation wardens from the full course of study at the Maine Criminal Justice Academy. It does not propose to exempt them from ongoing training requirements.

This bill has been carried over to the Second Regular Session.

**LD 550**                      **An Act to Ensure a Continuum of Proper Medical Care for Prisoners with Mental Disabilities or Mental Illness**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACDOUGALL PARADIS	ONTP	

LD 550 proposed to prohibit a physician for the Department of Corrections from countermanding a prescription previously prescribed for a client with mental disabilities or mental illness without first consulting the physician who prescribed the medication unless there is an emergency.

**LD 557**                      **An Act to Prohibit Surveillance of Dressing Rooms, Bathrooms and Similar Places**                      **PUBLIC 116**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN L	OTP-AM	H-155

LD 557 proposed that it is an invasion of a person's privacy to engage in surveillance of that person in a store dressing room.

**Committee Amendment "A" (H-155)** proposed to replace and retitle the bill. As proposed, the amendment clarified that "private place" for purposes of the crime of violation of privacy includes changing or dressing rooms, bathrooms and similar places. The amendment also proposed to add a fiscal note.

***Enacted law summary***

Public Law 1999, chapter 116 clarifies that "private place" for purposes of the crime of violation of privacy includes changing or dressing rooms, bathrooms and similar places.

**LD 562**                      **An Act Concerning Consecutive Sentencing**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ANDREWS	ONTP	

LD 562 proposed to amend the Maine Criminal Code so that multiple sentences for murder and Class A, B and C crimes must be imposed consecutively absent a reason stated on the record. It further proposed to require that the court in sentencing state its reasons on the record for imposing a concurrent sentence.

**LD 607****An Act Making It a Crime for Failure of a Junk Dealer to Keep Certain Records****ONTP**Sponsor(s)  
POVICHCommittee Report  
ONTPAmendments Adopted

LD 607 proposed to provide that a junk dealer who fails to keep a record of the name of every person selling junk to that dealer and of the registration number of the motor vehicle used by that seller to deliver the junk commits a Class E crime. Currently, that failure is a civil violation for which a fine of not more than \$100 may be adjudged. This bill proposed to bring the provision into line with the Maine Revised Statutes, Title 15, section 456, which makes it a Class E crime for dealers in personal property to fail to record dates of purchase, sellers' names and addresses and brief descriptions of property.

**LD 616****An Act Relating to the Forfeiture of Bail****ONTP**Sponsor(s)Committee Report  
ONTPAmendments Adopted

LD 616 proposed to prevent a defendant from avoiding forfeiture of money bail by assigning or transferring it prior to court action on the pending motion for default.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

**LD 629****An Act to Create a Seamless Treatment Plan for the Juvenile Offender with Substance Abuse Problems****CARRIED OVER**Sponsor(s)  
BAKER  
MURRAYCommittee ReportAmendments Adopted

LD 629 proposes to direct the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to create, implement and operate a comprehensive substance abuse treatment program for juveniles. The program must include uniform clinical assessment of juveniles to identify substance abuse problems, to ensure access to a comprehensive substance abuse treatment program that facilitates participation of the juvenile and the juvenile's family and to provide a system to monitor treatment progress and a follow-through mechanism to ensure treatment completion. The bill proposes to require the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to prepare and present a proposal to implement and fund a comprehensive substance abuse treatment program to the Joint Standing Committee on Criminal Justice by May 1, 1999. The proposal must include funding for at least 9 Regional Treatment Alternative to Street Crime Substance Abuse Managers who must be contracted with community treatment agencies. The bill also proposes to require the proposal to include a plan to make annual reports to the Joint Standing Committee on Criminal Justice regarding the progress of juvenile substance abuse treatment programs. This bill has been carried over to the Second Regular Session.

**LD 637**                      **An Act to Amend the Law Enforcement Officer Certification Standards**    **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY MCALEVEY		

LD 637 proposes to delete references to training standards for part-time and full-time law enforcement officers approved by the Board of Trustees of the Maine Criminal Justice Academy. This bill proposes to require levels of certification to be based on the officer's demonstration of having acquired specific knowledge and skills directly related to job performance rather than full-time or part-time employment.

This bill was submitted on behalf of the Department of Public Safety.

This bill has been carried over to the Second Regular Session.

**LD 650**                      **An Act to Amend the Crime of Theft by Deception to Include False Impressions as to Identity**                      **PUBLIC 455**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACKINNON MCALEVEY	OTP-AM	S-60

LD 650 proposed to amend the current crime of theft by deception to make it clear that the crime is committed when a person obtains the property of another as a result of intentionally creating a false impression as to the offender's identity. As proposed, the crime is committed when, for example, utility services or credit is obtained through the intentional creation of the false impression as to identity.

**Committee Amendment "A" (S-60)** proposed to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 455 amends the current crime of theft by deception to make it clear that the crime is committed when a person obtains the property of another as a result of intentionally creating a false impression as to the offender's identity.

**LD 651**                      **An Act to Prohibit Leaving a Child Alone in a Motor Vehicle**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACKINNON	ONTP	

LD 651 proposed to make leaving a child under five years of age unattended in a motor vehicle a Class E crime.

**LD 678**                      **An Act to Require Completion of an Ambulance Operator Course**                      **CARRIED OVER**

<u>Sponsor(s)</u> BULL KONTOS	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 678 proposes to require a person who routinely operates an ambulance to complete an ambulance operator course beginning January 1, 2002.

This bill has been carried over to the Second Regular Session.

**LD 684**                      **An Act to Allow for Continuing Law Enforcement Certification of the Commissioner of Public Safety and the Assistant to the Commissioner**                      **PUBLIC 114**

<u>Sponsor(s)</u> POVICH	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-154
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LD 684 proposed to amend the duties of the Commissioner of Public Safety to allow a commissioner who has completed the basic law enforcement training course and who is certified by the Board of Trustees of the Maine Criminal Justice Academy to enforce the laws of the State. The bill also proposed to make minor technical changes.

This bill was submitted on behalf of the Department of Public Safety.

**Committee Amendment "A" (H-154)** proposed to retitle and replace the bill. Instead of giving the Commissioner of Public Safety law enforcement powers, the amendment proposed to provide that the certification of a commissioner or assistant to the commissioner who is a law enforcement officer does not lapse during the period the officer serves as commissioner or as assistant to the commissioner. Currently, the administrative rules of the Maine Criminal Justice Academy provide that preservice and basic law enforcement certification lapse if an officer terminates employment and is not employed full time in a law enforcement capacity for a period of four years after termination.

***Enacted law summary***

Public Law 1999, chapter 114 provides that Maine Criminal Justice Academy certification of a commissioner or assistant to the commissioner who is a law enforcement officer does not lapse during the period the officer serves as commissioner or as assistant to the commissioner.

**LD 696**                      **An Act to Provide for Sentence Reform**                      **ONTP**

<u>Sponsor(s)</u> WATERHOUSE BENNETT	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 696 proposed to require the court to set a life term of imprisonment for a person who is convicted of murder or a Class A, B or C crime and has two prior convictions for murder or a Class A, B or C crime.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP CAREY	OTP-AM	H-181

LD 738 proposed to remove the provisions of law that allow posting land by painting silver stripes on trees or other objects.

**Committee Amendment "A" (H-181)** proposed to replace the bill and specify that a landowner who posts that landowner's land by paint markings may also mark the land with qualifying signs to indicate that access is prohibited only without permission of the landowner or the landowner's agent or that access is prohibited only for certain purposes.

#### *Enacted law summary*

Public Law 1999, chapter 115 specifies that a landowner who posts that landowner's land by paint markings may also mark the land with qualifying signs to indicate that access is prohibited only without permission of the landowner or the landowner's agent or that access is prohibited only for certain purposes.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY O'GARA	OTP-AM	H-152

LD 741 proposed to change the fingerprinting process currently provided for in the Maine Revised Statutes, Title 20-A, section 6103, subsection 6 in the following 4 ways:

1. Place the responsibility for the taking of fingerprints for applicants solely upon the Maine State Police;
2. Remove the responsibility from the applicant to forward the fingerprints to the Department of Education and instead require the Maine State Police to forward the prints to the State Bureau of Identification, which is the state entity that will actually conduct or arrange for the necessary state and national criminal history record checks on behalf of the Department of Education;
3. Make fingerprinting by the Maine State Police contingent upon payment of the necessary expenses by the applicant. Those expenses are as specified in Title 20-A, section 6103, subsection 4; and
4. Eliminate the requirement that two fingerprint cards be prepared.

The bill also proposes to amend Title 20-A, section 6103, subsection 4 to specifically identify the expenses to be borne by the applicant.

The bill also proposed to amend the fingerprinting provisions of Title 25, section 1542-A to accommodate the changes to Title 20-A, section 6103, subsections 4 and 6.

This bill was submitted on behalf of the Department of Public Safety.

**Committee Amendment "A" (H-152)** proposed that teachers or other educational personnel required to have fingerprints taken pursuant to the Maine Revised Statutes, Title 20-A, section 6103 may request that those fingerprints be removed from the State Bureau of Identification's file if the requester's certification, authorization or approval has expired and the requester has not applied for renewal. As proposed, upon receiving the request, the State Bureau of Identification shall remove the fingerprints from the file. The amendment also proposed to clarify that the applicant or any other entity required by law is responsible for paying a one-time \$25 processing fee when the Department of Public Safety takes the applicant's fingerprints. The fee is used to offset the department's costs. The amendment also proposed to add an allocation section and a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 110 amends the fingerprinting process currently provided for teachers and educational personnel in the Maine Revised Statutes, Title 20-A, section 6103, subsection 6 as follows:

1. Places the responsibility for the taking of fingerprints for applicants solely upon the Maine State Police;
2. Removes the responsibility from the applicant to forward the fingerprints to the Department of Education and instead require the Maine State Police to forward the prints to the State Bureau of Identification;
3. Makes fingerprinting by the Maine State Police contingent upon payment of the necessary expenses by the applicant;
4. Eliminates the requirement that two fingerprint cards be prepared;
5. Identifies the expenses to be borne by the applicant;
6. Amends the fingerprinting provisions of Title 25, section 1542-A to accommodate the changes to Title 20-A, section 6103, subsections 4 and 6;
7. Specifies that teachers or other educational personnel required to have fingerprints taken pursuant to the Maine Revised Statutes, Title 20-A, section 6103 may request that those fingerprints be removed from the State Bureau of Identification's file if the requester's certification, authorization or approval has expired and the requester has not applied for renewal; and
8. Clarifies that the applicant or any other entity required by law is responsible for paying a one-time \$25 processing fee when the Department of Public Safety takes the applicant's fingerprints.

Public Law 1999, chapter 110 was enacted as an emergency measure effective May 3, 1999.

**LD 761**

**An Act to Improve the Collection of Restitution**

**PUBLIC 469**

Sponsor(s)  
MURRAY

Committee Report  
OTP-AM

Amendments Adopted  
H-763 PEAHEY  
S-67

LD 761 proposed to amend existing state laws to enable the Department of Corrections to more efficiently collect and disburse court-ordered restitution to crime victims.

The bill also proposed to reduce the amount of interest going to the General Fund, therefore reducing General Fund revenue by \$50,000 each fiscal year.

**Committee Amendment "A" (S-67)** proposed to remove the provision that would allow restitution of missing and deceased victims to be placed in the Victims' Compensation Fund and replace it with a provision that would require the restitution of deceased victims be forwarded to the estate of the victim. The amendment proposed to limit to June 30, 2002 the period of time that interest on restitution may be placed in the Other Special Revenue Account within the Department of Corrections and that the position to administer the collection of restitution is funded. The amendment also proposed to add a fiscal note to the bill.

**Senate Amendment "A" to Committee Amendment "A" (S-86)** proposed to strike the provision in the committee amendment that would allow the office of a prosecuting attorney to request that the Department of Corrections direct compensation to the office of a prosecuting attorney for disbursement to victims. The amendment also proposed to clarify that the Department of Corrections may hire an additional Victim Services Representative, instead of an Account Clerk I.

This bill was submitted on behalf of the Department of Corrections.

#### ***Enacted law summary***

Public Law 1999, chapter 469 does the following:

1. Allows the Department of Corrections to more efficiently collect and disburse court-ordered restitution to crime victims;
2. Requires that interest accrued on restitution collected be deposited into the Other Special Revenue - Administration account within the Department of Corrections, which will reduce General Fund revenues by \$50,000;
3. Requires that income withholding orders be used to collect restitution from offenders who will not be incarcerated;
4. Specifies that if a victim dies or cannot be located, an offender's obligation to pay restitution is not affected. Restitution of a deceased victim must be forwarded to the estate of the victim; and
5. Limits to June 30, 2002 the period of time that interest on restitution may be placed in the Other Special Revenue Account within the Department of Corrections and that the position to administer the collection of restitution is funded.

**LD 765**

**An Act to Make Materiality a Jury Issue Relative to the Crime of Perjury**

**PUBLIC 13**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 765 proposed to remove the current directive that the trial court rather than the jury determine the materiality question. Since "materiality" is an element of the crime of perjury as legally defined, a defendant has the constitutional right to have the jury rather than the trial court determine the question of materiality. United States v. Gaudin, 515 U. S. 506 (1995).

This bill was submitted on behalf of the Criminal Law Advisory Commission.

#### ***Enacted law summary***



Public Law 1999, chapter 13 removes the current directive that the trial court rather than the jury determine the question of materiality.

**LD 766**

**An Act to Clarify the Criminal Code Relative to Strict Liability Crimes**

**PUBLIC 23**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

LD 766 proposed to make 5 changes to the Maine Revised Statutes, Title 17-A, section 34:

1. Merge the substantive content of Title 17-A, section 34, subsection 5 in that of Title 17-A, section 34, subsection 4;
2. Expressly recognize in Title 17-A, section 34, subsection 4 that, in addition to specific elements of a crime not being accompanied by a culpable mental state by legislative design, the Legislature can also impose criminal liability relative to an entire criminal statute without requiring proof by the State of a culpable mental state as to any of the elements of that crime. See e.g., State v. Boyce, 1998 Me. 219, ¶4, 718 A.2d 1097, 1099 (depraved indifference murder); State v. Seamen's Club, 1997 Me. 70, ¶11, 691 A.2d 1248, 1252 (crime of possession of short lobsters).
3. Define "strict liability crime" in a new subsection 4-A in Title 17-A, section 34 and provide for its use in subsection 4 of that section as a nonexclusive legislative means of expressly signaling an intent to impose criminal liability without the State having to prove a culpable state of mind as to any of the elements of the crime;
4. Make Title 17-A, section 34 gender neutral; and
5. Enact Title 17-A, section 2, subsection 23-A to reference the section 34 definition of "strict liability crime."

This bill was submitted on behalf of the Criminal Law Advisory Commission.

***Enacted law summary***

Public Law 1999, chapter 23 does the following:

1. Merges the substantive content of Title 17-A, section 34, subsection 5 in that of Title 17-A, section 34, subsection 4;
2. Expressly recognizes in Title 17-A, section 34, subsection 4 that, in addition to specific elements of a crime not being accompanied by a culpable mental state by legislative design, the Legislature can also impose criminal liability relative to an entire criminal statute without requiring proof by the State of a culpable mental state as to any of the elements of that crime. See e.g., State v. Boyce, 1998 Me. 219, ¶4, 718 A.2d 1097, 1099 (depraved indifference murder); State v. Seamen's Club, 1997 Me. 70, ¶11, 691 A.2d 1248, 1252 (crime of possession of short lobsters).
3. Defines "strict liability crime" in a new subsection 4-A in Title 17-A, section 34 and provides for its use in subsection 4 of that section as a nonexclusive legislative means of expressly signaling an intent to impose criminal liability without the State having to prove a culpable state of mind as to any of the elements of the crime;
4. Makes Title 17-A, section 34 gender neutral; and
5. Enacts Title 17-A, section 2, subsection 23-A to reference the section 34 definition of "strict liability crime."

Sponsor(s)Committee Report  
OTPAmendments Adopted

LD 791 proposed to remove the sentencing alternative of unconditional discharge from the Maine Revised Statutes, Title 17-A, chapter 49, section 1201 of the Criminal Code and give it unique treatment in new chapter 54-D, section 1346. It additionally proposed to make clear relative to this punishment alternative that it is to be imposed only when no other authorized sentencing alternative is found appropriate to be imposed by a sentencing court. Under current law, unconditional discharge is treated solely as an alternative to a sentencing alternative involving probation. Further, this bill proposed to address directly the currently authorized sentencing alternative of a wholly suspended term of imprisonment with probation by creating a new section 1203-C. (See section 1152, subsection 2, paragraph D.) Currently, this sentencing alternative is implicit in chapter 49. It also proposed to make a nonsubstantive change to section 1203, subsection 1 to conform it to new section 1203-C. Finally, this bill proposed to eliminate from section 1201 the current prohibition against the use of a sentencing alternative involving probation in the event the person to be sentenced poses a significant risk of further criminal activity while on probation.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

#### *Enacted law summary*

Public Law 1999, chapter 24 does the following:

1. Removes the sentencing alternative of unconditional discharge from the Maine Revised Statutes, Title 17-A, chapter 49, section 1201 of the Criminal Code and places it in new chapter 54-D, section 1346;
2. Makes clear that unconditional discharge is to be imposed only when no other authorized sentencing alternative is found appropriate to be imposed by a sentencing court. Under current law, unconditional discharge is treated solely as an alternative to a sentencing alternative involving probation;
3. Addresses directly the currently authorized sentencing alternative of a wholly suspended term of imprisonment with probation by creating a new section 1203-C. (See section 1152, subsection 2, paragraph D.) Currently, this sentencing alternative is implicit in chapter 49;
4. Makes a nonsubstantive change to section 1203, subsection 1 to conform it to new section 1203-C; and
5. Eliminates from section 1201 the current prohibition against the use of a sentencing alternative involving probation in the event the person to be sentenced poses a significant risk of further criminal activity while on probation.

Sponsor(s)  
MCALEVEYCommittee Report  
OTPAmendments Adopted

LD 811 proposed to leave to the discretion of the court whether to order certain juvenile sex offenders to undergo the required diagnostic evaluation at a detention facility and change the circumstances under which a court may order a juvenile to undergo a diagnostic evaluation at a detention facility to include that the facility is one in which the juvenile may otherwise be detained.

This bill was submitted on behalf of the Department of Corrections.

***Enacted law summary***

Public Law 1999, chapter 65 leaves to the discretion of the court whether to order certain juvenile sex offenders to undergo the required diagnostic evaluation at a detention facility and changes the circumstances under which a court may order a juvenile to undergo a diagnostic evaluation at a detention facility.

**LD 812**

**An Act to Allow the State Police to Accept Revenue for Providing Services to Municipalities and Counties**

**PUBLIC 111**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH DAVIS P	OTP-AM	H-180

LD 812 proposed to allow the State Police to charge municipalities and counties for services provided to the municipalities or counties. The bill proposed that the revenue received be used to fund the cost of providing the services.

This bill was submitted on behalf of the Department of Public Safety.

**Committee Amendment "A" (H-180)** proposed to replace the bill. The amendment proposed to add provisions dealing with radio communications and dispatch services to the current statutes dealing with law enforcement telecommunications systems. Specifically, the amendment proposed to allow the State Police, at the request of a federal agency, state department and agency, municipality or county to provide radio communications and dispatch services. As proposed, revenue received for providing these services, as well as telecommunications services, must be allocated for the purpose of funding the cost of providing the services. The amendment proposed that current law enforcement telecommunications systems are criminal justice telecommunications systems. The amendment also proposed to make technical changes and add a fiscal note.

***Enacted law summary***

Public Law 1999, chapter 111 adds provisions dealing with radio communications and dispatch services to the current statutes dealing with law enforcement telecommunications systems. Specifically, PL 1999, chapter 111 allows the State Police, at the request of a federal agency, state department and agency, municipality or county to provide radio communications and dispatch services. Revenue received for providing these services, as well as telecommunications services, must be allocated for the purpose of funding the cost of providing the services.

**LD 839**

**An Act to Ensure Proper Identification of Nonresident Concealed Firearms Permit Applicants**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
POVICH CAREY	ONTP	

LD 839 proposed to require a nonresident applicant for a concealed firearms permit to submit fingerprints at a location in the State and at a time specified by the Chief of the State Police for the purpose of conducting fingerprint-based state and national criminal record information checks.

This bill was submitted on behalf of the Department of Public Safety.

**LD 856**

**Resolve, Establishing the Commission to Study the Educational Needs of  
Offenders in the State's Correctional System**

**DIED IN  
CONCURRENCE**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAKER PARADIS	OTP-AM	H-299

LD 856 proposed to require the Commissioner of Corrections to develop and implement a mandatory educational program for all prisoners. As proposed, prisoners who are not exempt must participate in the mandatory educational program, whose standard is the attainment of a General Education Diploma or a verified high school diploma. The bill proposed to require that the commissioner report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. The report would include an overview of the department's current educational programs, the participation rate of prisoners and resource needs. The bill also proposed to require that the commissioner adopt routine technical rules for the implementation and review of mandatory educational programs for prisoners and for addressing prisoners' failure to participate in the mandatory educational programs.

**Committee Amendment "A" (H-299 )** proposed to replace the title and the bill with a resolve to create a commission to develop a plan to assess the correctional system's ability to meet the educational and vocational needs of offenders who are within the State's correctional facilities and under community supervision. As proposed, the commission's duties also include identifying the special needs and learning requirements of offenders within the State's correctional facilities; the skills and abilities necessary to ensure a successful transition to family, work force and community; and the community services necessary to support offenders under community supervision. The amendment proposed to require that the commission collect and analyze information regarding the educational levels and needs of offenders in the State's correctional facilities, review research on effective correctional educational practices; evaluate the current and potential use of technology in delivering educational programs and identify resources necessary to carry out any recommendations. In doing its work, the commission could consult with other state departments, persons representing associations concerned with learning disabilities and family literacy, law enforcement agencies and persons providing probation services. The amendment proposed to require that the commission report its recommendations to the Joint Standing Committee on Criminal Justice by January 15, 2000.

The amendment also proposed to add an appropriation section and a fiscal note.

**LD 861**

**An Act to Create a Seamless Treatment Plan for the Adult Offender with  
Substance Abuse Problems**

**P & S 35  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BAKER MILLS	OTP-AM	H-82

LD 861 proposed to direct the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to create, implement and operate a comprehensive substance abuse program for prisoners. As proposed, the program must include uniform clinical assessment of prisoners to identify substance abuse problems, to ensure access to a comprehensive substance abuse treatment program that facilitates participation of the prisoner and the prisoner's family, to provide a system to monitor treatment progress and a follow-through mechanism to ensure treatment completion.

The bill proposed to require the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to prepare and present a proposal to implement and fund the comprehensive substance abuse treatment program to the Joint Standing Committee on Criminal Justice by May 1, 1999. The bill also proposed to require the proposal to include a plan to make annual reports to the Joint Standing Committee on Criminal Justice with a summary regarding the progress of substance abuse treatment programs.

The bill also proposed to direct county jail administrators and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to create, implement and operate the same type of comprehensive substance abuse program for inmates in county jails. As proposed, county jail administrators and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse also must report to the Joint Standing Committee on Criminal Justice regarding the progress of substance abuse treatment programs.

**Committee Amendment "A" (H-82)** proposed to strike the provisions that require the county jails, with the help of the Office of Substance Abuse, to create, implement and operate comprehensive substance abuse treatment plans. The amendment also proposed to add a fiscal note to the bill.

***Enacted law summary***

Private and Special Law 1999, chapter 35 directs the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to create, implement and operate a comprehensive substance abuse program for prisoners. The program must include uniform clinical assessment of prisoners to identify substance abuse problems, to ensure access to a comprehensive substance abuse treatment program that facilitates participation of the prisoner and the prisoner's family, to provide a system to monitor treatment progress and a follow-through mechanism to ensure treatment completion.

Private and Special Law 1999, chapter 35 requires the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to prepare and present a proposal to implement and fund the comprehensive substance abuse treatment program to the Joint Standing Committee on Criminal Justice by May 1, 1999. Private and Special 1999, chapter 35 also requires the proposal to include a plan to make annual reports to the Joint Standing Committee on Criminal Justice with a summary regarding the progress of substance abuse treatment programs.

Private and Special Law 1999, chapter 35 also directs county jail administrators and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse to create, implement and operate the same type of comprehensive substance abuse program for inmates in county jails. County jail administrators and the Department of Mental Health, Mental Retardation and Substance Abuse Services, Office of Substance Abuse also must report to the Joint Standing Committee on Criminal Justice regarding the progress of substance abuse treatment programs.

Private and Special Law 1999, chapter 35 was enacted as an emergency measure effective June 10, 1999.

**LD 877                      An Act to Clarify Public Nuisance Descriptions                      ONTP**

<u>Sponsor(s)</u> COLWELL GOLDTHWAIT	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 877 proposed to clarify that automobile graveyards are a public nuisance and that a person who establishes, operates or maintains an automobile graveyard without a permit commits a Class E crime.

**LD 903****An Act to Amend the Concealed Weapons Permit Laws****CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E		

LD 903 proposes to make the following changes to the chapter regarding permits to carry concealed firearms:

1. Specify that the only issuing authorities for permits are a full-time chief of police for legal residents of a municipality and the Chief of the State Police for all others;
2. Clarify that an issuing authority verify information about an applicant and ensure all criteria are satisfied before issuing a permit to an applicant;
3. Require an applicant for a permit to be at least 21 years of age;
4. Require an applicant for a permit to be photographed and for any permit issued to include that photograph;
5. Require an applicant for a permit to submit to a criminal history record check;
6. Repeal the provisions regarding permit renewals and increases the permit fee to \$45 for legal residents and private investigators licensed in the State and \$75 for nonresidents;
7. Clarify that the Attorney General shall develop all forms for the Chief of the State Police and forms for police chiefs that are necessary for the permitting process and that those issuing authorities shall provide and use only those forms;
8. Lengthen the term of a permit from 4 years to 5 years; and
9. Clarify that a person may not carry a concealed firearm without having the permit in that permit holder's immediate possession and that the permit holder may not fail to display the permit holder's permit to a law enforcement officer upon that officer's demand. A person who violates these provisions commits a civil violation.

This bill has been carried over to the Second Regular Session.

**LD 936****An Act to Amend the Bail Code to Imprison Violators of Bail****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TOBIN J DAVIS P	ONTP	

LD 936 proposed to amend the Maine Bail Code as follows:

1. Amend the definitions of the terms "bail" and "ensure the integrity of the judicial process;"
2. Change the standards for release of a defendant in custody for a crime bailable as of right preconviction;
3. Provide that a judicial officer may not order the pretrial release of a defendant on personal recognizance or upon execution of an unsecured appearance bond on new criminal conduct if the defendant has pending criminal charges;

4. List criteria for a judicial officer to consider in determining whether the pretrial release of a defendant on personal recognizance or an unsecured appearance bond is appropriate;
5. Provide that a judicial officer may not order the defendant released on personal recognizance or unsecured appearance bond if the defendant's crime is serious or the judicial officer finds the defendant's criminal record inappropriate for granting the defendant release on personal recognizance or unsecured appearance bond;
6. Repeal the provision that permits the Superior Court to make a de novo determination of the refusal of a judge of the District Court or a bail commissioner acting under the Maine Revised Statutes, Title 15, section 1026 to authorize the defendant's release on personal recognizance or on the execution of an unsecured appearance bond and replace it with a provision that permits a defendant to appeal to the Superior Court to review whether the District Court or bail commissioner abused the court's or commissioner's discretion in setting the bail;
7. Provide that for a defendant in custody, an appeal hearing must be scheduled within 96 hours of the filing of the appeal;
8. Provide that a surety for a defendant admitted to bail is responsible for the appearance of the defendant at all times, the defendant's compliance with the conditions of release and ensuring that the defendant refrains from engaging in new criminal conduct; and
9. Change the standards for determining whether to release a person on bail in connection with probation revocation proceedings and provide that bail is not available to any person pending the appeal of a revocation of probation pursuant to Title 17-A, section 1207.

## LD 961

## An Act to Strengthen the State's Drug Laws

## PUBLIC 417

Sponsor(s)  
SCHNEIDER

Committee Report  
OTP-AM

Amendments Adopted  
H-454

LD 961 proposed to amend the definition of aggravated trafficking or furnishing scheduled drugs to include: furnishing a scheduled drug while on a school bus or within 1,000 feet of an elementary or secondary school; using a person under the age of 18 to furnish or traffick in a scheduled drug; and whenever serious bodily injury or death results to another person as a result of the furnishing or trafficking.

**Committee Amendment "A" (H-454)** proposed to delete language that would have amended the definition of aggravated trafficking and furnishing to include whenever serious bodily injury or death results to another person as a result of the furnishing or trafficking. The amendment also proposed to add a fiscal note to the bill.

### *Enacted law summary*

Public Law 1999, chapter 417 amends the definition of aggravated trafficking or furnishing scheduled drugs to include furnishing a scheduled drug while on a school bus or within 1,000 feet of an elementary or secondary school and using a person under the age of 18 to furnish or traffick in a scheduled drug.

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 417 and other drug laws were enacted simultaneously.

**LD 1021**                      **An Act to Allow a Movie Rental Company Restitution if a Person Fails to Return a Movie**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK MICHAUD	ONTP	

LD 1021 proposed to require a person convicted of theft, when the property is a movie or video rental, to pay restitution to the owner in the amount equal to the revenue lost by the owner due to the absence of the property for rental purposes plus expenses.

**LD 1044**                      **An Act to Require Notification by Law Enforcement Officers Before Tape-recording Certain Conversations**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRACY	ONTP	

LD 1044 proposed to amend the law regarding interception of wire and oral communications by requiring both a law enforcement officer and the person with whom the law enforcement officer is communicating to agree to the recording of their communication. As proposed, both the law enforcement officer and the other person also have to agree to allow another party to listen to their recorded communication. As proposed, these requirements would not apply when the law enforcement officer was working undercover.

**LD 1075**                      **An Act to Continue Restorative Justice**                      **PUBLIC 167  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY POVICH	OTP      MAJ OTP-AM      MIN	

Current law proposed to repeal state laws establishing community resolution teams for juvenile offenders and community reparation boards for adult offenders as restorative justice sentencing alternatives on May 1, 1999. LD 1075 proposed to continue these sentencing alternatives.

This bill was submitted on behalf of the Department of Corrections.

**Committee Amendment "A" (S-69)** was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to appropriate funding for 25 new probation officers whose duties would be to ensure the implementation of restorative justice. The amendment also proposed to add a fiscal note. This amendment was not adopted.

***Enacted law summary***

Public Law 1999, chapter 167 repeals the provision that would have repealed community resolution teams and community reparation boards.



**LD 1095**                      **An Act to Expand the Geographic Availability of the Supervised Community Confinement Program**                      **CARRIED OVER**

<u>Sponsor(s)</u> SIROIS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1095 proposes to require the Commissioner of Corrections to ensure that the supervised community confinement program is operational in all geographic regions of the State.

This bill has been carried over to the Second Regular Session.

**LD 1096**                      **An Act to Make Schools Safer**                      **INDEF PP**

<u>Sponsor(s)</u> COLWELL		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1096 proposed to increase the penalty for assault, criminal threatening and terrorizing from a Class D crime to a Class C crime and criminal trespass from a Class E crime to a Class D crime if any of the offenses occur on school grounds. This bill was not referred to committee.

**LD 1140**                      **An Act to Protect Cemeteries**                      **ONTP**

<u>Sponsor(s)</u> SNOWE-MELLO DAVIS P		<u>Committee Report</u> ONTP      MAJ OTP      MIN		<u>Amendments Adopted</u>
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LD 1140 proposed to require a mandatory minimum sentence for a person convicted of vandalizing a cemetery. As proposed, if the violator is a minor, the court must require the violator or the violator's family to pay restitution and require the violator to perform eight hours of community service per week for the cemetery for two consecutive summers following the conviction; if the violator is an adult, the court must require the violator to pay restitution and to perform five hours of community service for the cemetery per week for one year.

**LD 1145**                      **An Act to Increase the Penalties for Persons in Possession of Crack Cocaine in Conformity with the Penalties for Similarly Dangerous Drugs**                      **ONTP**

<u>Sponsor(s)</u> SCHNEIDER DAVIS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1145 proposed to increase the penalty for possession of crack cocaine in conformity with the penalties for similarly dangerous drugs. This bill was the recommendation of the Office of the Attorney General.

**LD 1153**                      **An Act to Require Counties to be Reimbursed 100% for all Prisoners Incarcerated in Jail From Other Jurisdictions From Arrival Until Departure**                      **ONTP**

<u>Sponsor(s)</u> GOODWIN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1153 proposed to require the Department of Corrections to reimburse in full a county for the costs that county incurs boarding a prisoner from another jurisdiction in its jail.

**LD 1202**                      **An Act to Ensure Just Sentences**                      **CARRIED OVER**

<u>Sponsor(s)</u> MILLS	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1202 proposes to amend the mandatory minimum sentence for the crime of murder to accommodate the substantial reduction in earned good time and meritorious good time effective October 1, 1995. The 1995 amendment required that the parties and the sentencing courts adjust their sentencing recommendations and practices to accommodate the increase in the actual period of incarceration resulting from the significant decrease in good time. In the case of 25-year minimum sentences, such an adjustment is not possible. This bill proposes to partially address this inequity by reducing the minimum mandatory sentence to 20 years.

LD 1202 proposes to provide a "safety valve" for sentencing courts in cases where a mandatory minimum sentence would result in substantial injustice and a frustration of the general purposes of sentencing as outlined in the Maine Criminal Code. The bill proposes to allow the court to take into consideration documented evidence of severe hardship to the offender as well as the wishes of the victim.

Finally, LD 1202 proposes to remove mandatory minimum sentences for the crime of aggravated trafficking or furnishing scheduled drugs.

This bill has been carried over to the Second Regular Session.

**LD 1220**                      **An Act to Provide for Resident State Police Officers for Municipalities Without a Police Force**                      **PUBLIC 119**

<u>Sponsor(s)</u> CLARK	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-153
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LD 1220 proposed to allow a municipality without an organized police department to contract with the Bureau of the State Police to have a state police officer specifically assigned to provide police services to the municipality. As proposed, the municipality must pay the expense of providing the assigned state police officer.

**Committee Amendment "A" (H-153)** proposed that no more than three adjoining municipalities together may contract to have a state police officer assigned to provide police services. The amendment also proposed to add a fiscal note to the bill.

*Enacted law summary*

Public Law 1999, chapter 119 allows one and up to three adjoining municipalities without organized police departments together to contract with the Bureau of State Police to have a state police officer assigned to provide police services to the municipalities. Contracting municipalities must pay for the services.

**LD 1221**

**An Act Requiring a Mandatory Jail Sentence for a Person Convicted Twice of Sexual Abuse Against a Minor**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCNEIL AMERO	ONTP	

LD 1221 proposed to require a court to impose an underlying jail sentence and order counseling for a person convicted of sexual abuse of a minor if that person has one or more prior convictions of sexual abuse of a minor.

**LD 1245**

**An Act to Modify the Laws on Negotiating a Worthless Instrument**

**DIED BETWEEN BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES MACKINNON	ONTP      MAJ OTP      MIN	

- LD 1245 proposed to amend the crime of negotiating a worthless instrument. Specifically, the bill proposed to:
1. Change the notice of dishonor provision from requiring the issuer of the check to actually receive the notice to requiring the return of the instrument to a bank for collection to be considered sufficient notice;
  2. Decrease the minimum amount of the face value of the worthless negotiable instrument at which it becomes a Class D crime from over \$1,000 to over \$500;
  3. Decrease the maximum amount of the face value of the worthless negotiable instrument at which it becomes a Class E crime from \$1,000 to \$500; and
  4. Increase the penalty for a person who is convicted of more than one violation of passing a worthless negotiable instrument with a face value of \$500 or less.

**House Amendment "A" (H-638)** proposed to change the requirement for the return of a worthless instrument to a bank for collection from within 5 days to within 10 days. The amendment also proposed to remove the provisions that decrease the minimum amount of the face value of the worthless negotiable instruments for Class D and E crimes and remove the increase in penalty for a person who is convicted of more than one violation of passing a worthless negotiable instrument with a face value of \$500 or less. This amendment was not adopted.

**LD 1260****An Act to Offer Reciprocity Concerning Concealed Firearms Permits****ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BENNETT CLARK	ONTP	

LD 1260 proposed to allow a person to carry a concealed firearm in the State if that person has a concealed firearms permit from another state or country and the permit to carry a concealed firearm from that state or country is granted reciprocity. As proposed, reciprocity is granted to a permit to carry a concealed firearm from another state or country if:

1. The other state or country that issued the permit to carry a concealed firearm has substantially equivalent or stricter requirements for the issuance of a permit to carry a concealed firearm; and
2. The other state or country that issued the permit to carry a concealed firearm observes the same rules of reciprocity in regards to a person issued a permit to carry a concealed firearm under Maine law.

**LD 1280****An Act to Provide Funding for School Drug Awareness and Education Programs****CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
AHEARNE PENDLETON		

LD 1280 proposes to establish the Drug Awareness and Education for Schools Fund. The fund is a nonlapsing interest-bearing account. Ten percent of all fines paid for violations of the Maine Revised Statutes, Title 17-A, chapter 45 must be deposited into the fund, which must be used to support school programs for drug awareness and education, including the DARE program.

This bill has been carried over to the Second Regular Session.

**LD 1281****An Act to Raise Penalties for Cases of Cruelty to Animals or Birds****PUBLIC 481**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STEVENS KILKELLY	OTP-AM	H-419

LD 1281 proposed to increase the penalties for cruelty to animals and cruelty to birds and make those penalties consistent.

**Committee Amendment "A" (H-419)** proposed to replace the bill. The amendment proposed to clarify that the crimes of cruelty to animals and cruelty to birds require the offender to have an intentional, knowing or reckless state of mind. The amendment proposed to allow the State to aggravate the crimes of cruelty to animals and cruelty to birds from Class

D crimes to Class C crimes if the State pleads and proves that at the time of a violation the offender has 2 or more convictions for these crimes or for essentially similar crimes in other jurisdictions. The amendment also proposed to add a fiscal note.

***Enacted law summary***

Public Law 1999, chapter 481 clarifies that the crimes of cruelty to animals and cruelty to birds require the offender to have an intentional, knowing or reckless state of mind. PL 1999, chapter 481 allows the State to aggravate the crimes of cruelty to animals and cruelty to birds from Class D crimes to Class C crimes if the State pleads and proves that at the time of a violation the offender has 2 or more convictions for these crimes or for essentially similar crimes in other jurisdictions.

**LD 1282                      An Act to Make It a Class E Crime to Write a Check on a Closed Account                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	ONTP	

LD 1282 proposed to make writing a check on a closed account a Class E crime. The bill proposed to base the penalties on the number of prior offenses, instead of on value.

**LD 1293                      An Act Concerning the Responsibility of County Sheriffs to Transport Juvenile Detainees                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E DAGGETT	ONTP	

LD 1293 proposed to clarify the sheriffs' duties to transport juvenile detainees to and from the Maine Youth Center and to or from a court house.

**LD 1320                      An Act to Create a Penalty for the Intentional Transmission of a Sexually Transmitted Disease                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT BUMPS	ONTP	

LD 1320 proposed to make the transmission of a sexually transmitted disease a crime. As proposed, a person who knows or has reason to believe that the person is infected with a sexually transmitted disease commits a Class C crime if that person transmits that sexually transmitted disease to another person intentionally, knowingly, recklessly or with criminal negligence.

**LD 1330                      An Act Concerning Corrections Employees                      PUBLIC 459**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINGREE	OTP-AM	S-307 S-423 MICHAUD

LD 1330 proposed to remove the provision of law that allowed the Commissioner of Corrections to hire intermittent employees.

**Committee Amendment "A" (S-307)** proposed to replace the bill. The amendment proposed to continue to allow the Commissioner of Corrections to hire intermittent employees, but it provides that intermittent positions in the institutional services unit must be identified through a separate agreement with labor and may be used only at the preidentified posts and sites. The amendment proposed that the use of intermittent employees for the purpose of overtime must be governed by an agreement between the parties. The amendment also proposed to add a fiscal note.

**Senate Amendment "A" to Committee Amendment "A" (S-423)** proposed to add necessary language, for fiscal year 1999-00 only, to grant the Department of Corrections the needed authority to establish intermittent positions. It also proposed to require the department to report to the Legislature by January 14, 2000 concerning utilization of that authority.

#### *Enacted law summary*

Public Law 1999, chapter 459 continues to allow the Commissioner of Corrections to hire intermittent employees, but it provides that intermittent positions in the institutional services unit must be identified through a separate agreement with labor and may be used only at the preidentified posts and sites. Use of intermittent employees for the purpose of overtime must be governed by an agreement between the parties.

Public Law 1999, chapter 459 also adds necessary language, for fiscal year 1999-00 only, to grant the Department of Corrections the needed authority to establish intermittent positions, and requires the department to report to the Legislature by January 14, 2000 concerning utilization of that authority.

### **LD 1334                      An Act Concerning the Distribution of Certain Fines and Forfeitures                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS	ONTP	

LD 1334 proposed to establish within the Department of the Attorney General the Tobacco Revenues Grants Committee, which has the authority to award to law enforcement agencies funds derived from one-half of the fines and forfeitures collected from persons found in violation of the retail tobacco sales law.

### **LD 1347                      An Act Addressing an Allegation of Prior Conviction When the Sentence Is Enhanced                      PUBLIC 196**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 1347 proposed to:

1. Transfer the basic allegation requirement relating to a prior conviction to be used for sentencing enhancement, including the definition of sentencing enhancement, from the Maine Revised Statutes, Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A;
2. Transfer the issue of identity from Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A; and
3. Repeal the remaining procedural portions of Title 15, section 757 and direct, in the new section 9-A of the Criminal Code, Title 17-A, that the manner of alleging a prior conviction in a charging instrument and conditions for using that prior conviction at trial be as the Supreme Judicial Court provides by rule.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

#### ***Enacted law summary***

Public Law 1999, chapter 196 transfers the basic allegation requirement relating to a prior conviction to be used for sentencing enhancement, including the definition of sentencing enhancement, from the Maine Revised Statutes, Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A. PL 1999, chapter 196 transfers the issue of identity from Title 15, section 757 to a new section 9-A of the Criminal Code, Title 17-A and repeals the remaining procedural portions of Title 15, section 757 and directs that the manner of alleging a prior conviction in a charging instrument and conditions for using that prior conviction at trial be as the Supreme Judicial Court provides by rule.

## **LD 1361**

### **An Act to Increase the Requirement that Drugs be Confiscated from 48 Hours to 6 Months**

## **PUBLIC 442**

Sponsor(s)  
SCHNEIDER

Committee Report  
OTP-AM

Amendments Adopted  
H-458

LD 1361 proposed to increase the requirement that the drugs be confiscated from a 48-hour period to a period of one year when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct. The bill also proposed to incorporate the cultivation statute. This bill was the recommendation of the Attorney General.

**Committee Amendment "A" (H-458)** proposed to retitle and replace the bill. The amendment proposed to increase the requirement that the drugs be confiscated from a 48-hour period to a 6-month period when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct that involves trafficking, furnishing or aggravated trafficking or furnishing. As proposed, drugs confiscated pursuant to a possession charge continue to be limited to the 48-hour confiscation period. The amendment also proposed to create a new section in the Maine Revised Statutes, Title 17-A, chapter 45 to address all aggravation based on confiscation.

The summary of the bill incorrectly indicated that the bill included the cultivation statute; neither the bill nor the amendment includes cultivation for purposes of aggregation based upon confiscation.

The amendment also proposed to add a fiscal note.

#### ***Enacted law summary***

Public Law 1999, chapter 442 increases the requirement that the drugs be confiscated from a 48-hour period to a 6-month period when a prosecutor wishes to aggregate conduct that is committed pursuant to one scheme or course of conduct that involves trafficking, furnishing or aggravated trafficking or furnishing. Drugs confiscated pursuant to a possession charge continue to be limited to the 48-hour confiscation period. Public Law 1999, chapter 442 also creates a new section in the Maine Revised Statutes, Title 17-A, chapter 45 to address all aggravation based on confiscation.

**LD 1362**

**An Act to Allow the State to Initiate Default Proceedings in Order to Obtain Forfeited Assets When the Defendant Fails to Appear in a Court Proceeding**

**PUBLIC 395**

Sponsor(s)  
SCHNEIDER

Committee Report  
OTP

Amendments Adopted

LD 1362 proposed to allow the State to initiate default proceedings in order to obtain forfeited assets when the defendant fails to appear in a court proceeding. This bill was the recommendation of the Attorney General.

***Enacted law summary***

Public Law 1999, chapter 395 allows the State to initiate default proceedings in order to obtain forfeited assets when the defendant fails to appear in a court proceeding.

**LD 1369**

**An Act to Transfer Responsibility for Youth Corrections from the Department of Corrections to the Department of Human Services**

**CARRIED OVER**

Sponsor(s)  
TOWNSEND  
PENDLETON

Committee Report

Amendments Adopted

LD 1369 proposes to transfer responsibility for the Maine Youth Center and the Northern Maine Regional Juvenile Detention Facility from the Department of Corrections to the Department of Human Services. The bill proposes to retain the current structure of the facilities and their relationships with the other departments and with the federal Department of Justice.

This bill has been carried over to the Second Regular Session.

**LD 1382**

**An Act to Require That Both the Northern Maine Regional Juvenile Detention Facility and the Maine Youth Center Receive Detainees**

**PUBLIC 463**

Sponsor(s)  
MCALEVEY

Committee Report  
OTP-AM

Amendments Adopted  
H-182

LD 1382 proposed to allow a court to order a juvenile who is sentenced to a period of detention that may not exceed 30 days to serve that sentence in any Department of Corrections juvenile facility. Current law only allows such a sentence to be served at the Northern Maine Regional Juvenile Detention Facility.

**Committee Amendment "A" (H-182)** proposed to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 463 allows a court to order a juvenile who is sentenced to a period of detention that may not exceed 30 days to serve that sentence in any Department of Corrections juvenile facility.



Sponsor(s)  
TUTTLE

Committee Report  
OTP-AM

Amendments Adopted  
H-151

LD 1386 proposed to direct the Department of Public Safety, Bureau of State Police to develop and implement a police cadet program for youth who have graduated from high school or have a General Equivalency Diploma.

**Committee Amendment "A" (H-151)** proposed to replace the title and the resolve. The amendment proposed to expand the scope of planning and potential implementation for the police cadet program to include the entire Department of Public Safety; other state law enforcement agencies, including the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Conservation; municipal law enforcement agencies; and county law enforcement agencies. The amendment also proposed to direct the law enforcement agencies to work with the University of Maine at Augusta and direct the Department of Public Safety to coordinate reporting to the Joint Standing Committee on Criminal Justice. The amendment also proposed to add a fiscal note to the resolve.

***Enacted law summary***

Resolve 1999, chapter 58 directs the following entities to develop and implement a police cadet program: the Department of Public Safety; other state law enforcement agencies, including the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Conservation; municipal law enforcement agencies; and county law enforcement agencies. Resolve 1999, chapter 58 directs the law enforcement agencies to work with the University of Maine at Augusta and directs the Department of Public Safety to coordinate reporting to the Joint Standing Committee on Criminal Justice.

Sponsor(s)  
POVICH

Committee Report  
OTP-AM

Amendments Adopted  
H-428  
H-475 CAMERON

Part A of LD 1400 proposed to amend the juvenile corrections laws to:

1. Require prosecutors to effect detention placement within 12 hours following arrest just as is now required of juvenile careworkers;
2. Specify that a conditional release becomes unconditional if report of notification is not filed by police within the 24 hours mandated by present law;
3. Clarify that a juvenile caseworker may decide that ongoing supervision of a juvenile is not required;
4. Eliminate administrative preliminary hearings and require court detention hearings to determine probable cause for probation revocation; and
5. Eliminate the age restriction on juveniles who may be detained at the Northern Maine Regional Juvenile Detention Facility so that it like the Maine Youth Center may be used to detain younger juveniles for whom there is no other alternative.

Part B of the bill proposed to establish the State Bureau of Identification of the Department of Public Safety as the central repository for juvenile crime information.

This bill was submitted on behalf of the Department of Corrections.

**Committee Amendment "A" (H-428)** proposed to do the following:

1. Clarify that juvenile caseworkers are responsible for detention placement;
2. Allow juvenile caseworkers to review conditions imposed on a juvenile and lessen or eliminate the conditions if the law enforcement report for the incident is not filed within 15 days;
3. Permit juvenile caseworkers to disclose the identities of juveniles on conditional release or informal adjustment to criminal justice agencies for the purpose of administration of juvenile criminal justice;
4. Change from 48 hours to 24 hours the time a detention hearing must be held after a juvenile is placed in a secure detention facility, which is consistent with federal requirements; and add a mandate preamble and a fiscal note to the bill.

**House Amendment "A" (H-475)** This amendment was presented on behalf of the Committee on Bills in the Second Reading and proposed to prevent a statutory conflict by incorporating a change made to the Maine Revised Statutes, Title 25, section 1542-A, subsection 1, paragraphs F and G; subsection 3, paragraph F; subsection 4; and subsection 8 in Public Law 1999, chapter 110.

#### ***Enacted law summary***

Public Law 1999, chapter 260 has two parts.

Part A amends the juvenile corrections laws to:

1. Require prosecutors to effect detention placement within 12 hours following arrest just as is now required of juvenile careworkers and to clarify that juvenile caseworkers are responsible for that placement;
2. Allow juvenile caseworkers to review conditions imposed on a juvenile and lessen or eliminate the conditions if the law enforcement report for the incident is not filed within 15 days;
3. Clarify that a juvenile caseworker may decide that ongoing supervision of a juvenile is not required;
4. Eliminate administrative preliminary hearings and require court detention hearings to determine probable cause for probation revocation;
5. Eliminate the age restriction on juveniles who may be detained at the Northern Maine Regional Juvenile Detention Facility so that it like the Maine Youth Center may be used to detain younger juveniles for whom there is no other alternative;
6. Permit juvenile caseworkers to disclose the identities of juveniles on conditional release or informal adjustment to criminal justice agencies for the purpose of administration of juvenile criminal justice; and
7. Change from 48 hours to 24 hours the time a detention hearing must be held after a juvenile is placed in a secure detention facility. This is consistent with federal requirements.

Part B establishes the State Bureau of Identification as the central repository for juvenile crime information.

Note: LD 2252, An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine, Public Law 1999, chapter 510 corrects PL 1999, chapter 110 by clarifying that Part B is effective September 1, 2000. Part A is effective 90 days after the Legislature adjourns.

## LD 1421

## An Act to Amend the Definition of Firearms to Include Paint Guns

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS	ONTP	

LD 1421 proposed to add paint gun to the definition of a firearm.

## LD 1428

## Resolve, to Create the Commission to Study the Enhancement of Fire Protection Services throughout the State

**RESOLVE 65  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCALEVEY O'GARA	OTP-AM	H-557 S-447 MICHAUD

LD 1428 proposed to direct the Department of Public Safety, the Maine State Retirement System, the Maine Fire Training and Education Program within the Maine Technical College System and the State Employee Health Commission within the Bureau of Human Resources to take several steps to enhance fire protection services throughout the State. The resolve also proposed to direct those entities to report their progress regarding the creation and implementation of fire safety enhancements and submit any necessary legislation to the Joint Standing Committee on Criminal Justice by January 15, 2000.

**Committee Amendment "A" (H-557)** proposed to retitle and replace the resolve. The amendment proposed to create the Commission to Study the Enhancement of Fire Protection Services throughout the State. It also proposed to add an emergency preamble and emergency clause, an appropriation section and a fiscal note to the resolve.

**House Amendment "A" to Committee Amendment "A" (H-586)** was presented on behalf of the Committee on Bills in the Second Reading and proposed to change the date by which the commission must make its report to January 14, 2000.

**Senate Amendment "A" to Committee Amendment "A" (S-447)** proposed to change the reporting date from January 14, 2000 to December 1, 1999. The amendment also proposed to clarify that, following receipt of the commission's report, the Joint Standing Committee on Criminal Justice may report out a bill to the Second Regular Session of the 119th Legislature.

### *Enacted law summary*

Resolve 1999, chapter 65 creates the Commission to Study the Enhancement of Fire Protection Services throughout the State. The commission's members include: the President of the Maine Fire Chiefs Association, the President of the Professional Firefighters of Maine, the President of the Maine State Federation of Firefighters and 3 members of the Joint Standing Committee on Criminal Justice. The commission is required to report its recommendations to the Joint Standing Committee on Criminal Justice by January 14, 2000.

Resolve 1999, chapter 65 was enacted as an emergency measure effective June 10, 1999.

**LD 1433**                      **An Act to Repeal the Requirement That a Person Have a Permit to Carry a Concealed Weapon**                      **ONTP**

<u>Sponsor(s)</u> TRACY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1433 proposed to repeal the current requirement that a person obtain a permit prior to carrying a concealed weapon. The bill proposed to require that a person who wants to carry a concealed firearm must complete a handgun safety course and must carry proof of the successful completion of that course. As proposed, failure to obtain and carry such proof while carrying a concealed firearm is a Class D crime. As proposed, a person who had a concealed weapon permit may apply to the Commissioner of Public Safety for a waiver of the safety course requirement.

**LD 1443**                      **An Act to Set Aside a Portion of Juvenile Justice Block Grant Money for Quality Child and After-school Care Programs**                      **ONTP**

<u>Sponsor(s)</u> LONGLEY		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1443 proposed to require the Juvenile Justice Advisory Group to set aside 10% of funds for quality child and after-school care programs.

**LD 1473**                      **An Act to Amend the Maine Emergency Medical Services Act of 1982**                      **PUBLIC 182**

<u>Sponsor(s)</u> MCALEVEY CAREY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-301
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LD 1473 proposed to amend the laws regarding emergency medical services in the following ways:

1. Make the position of Director of Maine Emergency Medical Services a major policy-influencing position and delete language that requires the Governor to set the director's salary;
2. Amend the definitions of "ambulance attendant," "basic emergency medical technician" and "protocol," and create new definitions for "first responder" and "Medical Direction and Practices Board;"
3. Allow the Medical Direction and Practices Board to define protocols for the emergency medical services system;
4. Make minor technical changes in the language regarding the minimum requirements for initial licensing of emergency medical services persons;
5. Allow flight nurses to care for patients being transported by ambulance from the scene of an emergency;

6. Allow the Emergency Medical Services' Board to hold rule-making hearings regionally using current technology such as video conferencing and make clear that the board may adopt rules establishing the requirements for certification, recertification and decertification of persons engaged in emergency medical services education and training;
7. Provide for the certification and decertification of emergency medical services persons on a statewide rather than a regional basis; and
8. Expand the responsibilities of the Emergency Medical Services' Board to include the creation of a statewide quality assurance and improvement committee.

This bill was submitted on behalf of the Department of Public Safety.

**Committee Amendment "A" (H-301)** proposed to make several technical changes and add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 182 amends the laws regarding emergency medical services as follows.

1. It makes the position of Director of Maine Emergency Medical Services a major policy-influencing position and deletes language that requires the Governor to set the director's salary.
2. It amends the definitions of "ambulance attendant," "basic emergency medical technician" and "protocol." It also creates new definitions for "first responder" and "Medical Direction and Practices Board."
3. It allows the Medical Direction and Practices Board to define protocols for the emergency medical services system.
4. It makes minor technical changes in the language regarding the minimum requirements for initial licensing of emergency medical services persons.
5. It allows flight nurses to care for patients being transported by ambulance from the scene of an emergency.
6. It allows the Emergency Medical Services' Board to hold rule-making hearings regionally using current technology such as video conferencing. It also makes it clear that the board may adopt rules establishing the requirements for certification, recertification and decertification of persons engaged in emergency medical services education and training.
7. It provides for the certification and decertification of emergency medical services persons on a statewide rather than a regional basis.
8. It expands the responsibilities of the Emergency Medical Services' Board to include the creation of a statewide quality assurance and improvement committee.

**LD 1539**

**An Act to Require More Timely Court-ordered Psychological Evaluations**

**PUBLIC 373**

Sponsor(s)  
MACDOUGALL

Committee Report  
OTP-AM

Amendments Adopted  
H-534

LD 1539 proposed to change the time frame for the completion of a court-ordered mental examination of an incarcerated person accused of a crime from 90 days to 30 days from the date of arrest.

**Committee Amendment "A" (H-534)** proposed to require that a court-ordered examination of a defendant before trial must be completed within 45 days of the arrest if the defendant is incarcerated. It also proposed to require the State Forensic Service to notify the court when the examination is completed.

***Enacted law summary***

Public Law 1999, chapter 373 changes the time frame for the completion of a court-ordered mental examination of an incarcerated person accused of a crime from 90 days to 45 days from the date of arrest. Public Law 1999, chapter 373 also requires the State Forensic Service to notify the court when the examination is completed.

Note: LD 2252, An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine, Public Law 1999, chapter 510 amends Public Law 1999, chapter 373. Public Law 1999, chapter 510 corrects misuse of the word "arrest." A psychological evaluation must be completed within 45 days from the date of the court order instead of the date of the defendant's arrest.

**LD 1566                      An Act to Clarify the Definition of Terms Relating to Scheduled Drugs                      PUBLIC 239**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
SCHNEIDER		OTP-AM		H-420

LD 1566 proposed to clarify the definition of "cultivate" as it relates to the prohibition against growing marijuana. The bill proposed to limit to 1 1/4 ounces the amount of marijuana a person may possess and be subject to civil, as opposed to criminal, penalties. This bill was the recommendation of the Attorney General.

**Committee Amendment "A" (H-420)** proposed to strike section 2 of the bill that defines "usable amount of marijuana" as a usable amount weighing not more than 1 1/4 ounces.

***Enacted law summary***

Public Law 1999, chapter 239 clarifies the definition of "cultivate" as it relates to the prohibition against growing marijuana. "Cultivate" means to sow a seed; to grow, raise or tend a plant; to harvest a plant; or to knowingly possess a plant.

**LD 1572                      An Act to Establish Lifetime Probation for Multiple Sex Offenders                      ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
O'BRIEN L		ONTP		

LD 1572 proposed to require that a person convicted of a Class A, B or C sex offense who has two or more other convictions of any Class A, B or C sex offense or a comparable offense in another jurisdiction must be placed on probation for life or sentenced to a term of imprisonment of 15 years. As proposed, if the person is placed on probation for life, the person may be sentenced to a term of imprisonment up to 15 years, and if the person is sentenced to a term of imprisonment of 15 years, the person may be placed on any period of probation up to life.

**LD 1575                      An Act to Criminalize Internet Dissemination of Child Pornography                      PUBLIC 444**

Sponsor(s)  
SCHNEIDER  
LONGLEY

Committee Report  
OTP-AM

Amendments Adopted  
H-418  
H-600 POVICH

LD 1575 proposed to:

1. Clarify the definition of "disseminate" to make clear that the dissemination of sexually explicit materials via computer is covered by the laws regulating sexual exploitation of minors and does not, in fact, require receipt by another as a precondition to the completion of the act of dissemination;
2. Clarify that representations of person who do not in fact exist but who are depicted to be under 18 years of age are within the scope of the prohibition and that any person actually viewing the visual image or material, including jurors, may render an opinion as to the age of the representation or person depicted;
3. Clarify the modality of reproducing visual images or material to include, in addition to mechanical, electronic or chemical reproduction;
4. Make it an affirmative defense that the person depicted was the spouse of any actor and add affirmative defenses for medical, scientific or law enforcement purposes;
5. Modify the existing prohibitions from covering persons under 14 years of age to persons under 18 years of age in conformity with the laws of the United States and neighboring jurisdictions, such as Massachusetts;
6. Create a new crime of aggravated dissemination, which is a Class B crime, and prohibit the dissemination of sexually explicit visual images or materials to persons the offender believes or knows to be a minor. As proposed, this section would encompass as an aggravated offense the dissemination of sexually explicit visual images or material to a person the offender believes to be a minor, but who is, in fact, an adult law enforcement officer acting undercover; and
7. Allow for a simple criminal forfeiture procedure for equipment used to facilitate a violation of the sexual exploitation of minors laws.

**Committee Amendment "A" (H-418)** proposed to retain the expansion of the definition of "disseminate" and the description of the crime of "dissemination of sexually explicit materials" to cover the dissemination of sexually explicit materials over the Internet. The amendment proposed to delete the following from the bill:

1. "Attempt" from the proposed definition of "disseminate;"
2. The provisions raising the age of persons protected by the laws from 14 years of age to 18 years of age;
3. The proposal to include the "representation" of a minor in the definition of minor and in the definition of the offense of dissemination of sexually explicit materials;
4. Proposed authorized methods for determining the age of the person depicted;
5. Changes in defenses and the terms "uncovered or covered;" and
6. The proposed new crime of aggravated dissemination of sexually explicit materials.

The amendment also proposed to add a fiscal note.

**House Amendment "A" (H-600)** proposed to clarify that a defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial.

### *Enacted law summary*

Public Law 1999, chapter 444 clarifies the definition of "disseminate" and the description of the crime of "dissemination of sexually explicit materials" to cover the dissemination of sexually explicit materials over the Internet. Public Law 1999, chapter 444 also allows for the criminal forfeiture of equipment used to facilitate a violation of the sexual exploitation of minors laws.

## **LD 1583                      An Act to Amend the Definition of Sex Offender and to Require Sheriffs to Notify the State Bureau of Identification of a Sex Offender's Release from Jail for Purposes of Registration and Notification                      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'BRIEN L		

LD 1583 proposes to expand the definition of "sex offender" for purposes of the Sex Offender Registration and Notification Act to include all sex offenses in the Maine Revised Statutes, Title 17-A, chapter 11 that are Class A, B or C crimes and the crime of sexual exploitation of a minor. For purposes of registration and notification, the bill also proposes to require county sheriffs to notify the Department of Public Safety, State Bureau of Identification when a sex offender is released from a county jail.

This bill has been carried over to the Second Regular Session.

## **LD 1588                      An Act to Increase the Penalties for Persons in Possession of Methamphetamine in Conformity with the Penalties for Similarly Dangerous Drugs                      PUBLIC 422**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	OTP-AM	H-535

LD 1588 proposed to bring the general treatment of methamphetamine into conformity with the treatment of cocaine for persons charged with possession, furnishing and trafficking. This bill proposed to treat methamphetamine in virtually the same manner as cocaine hydrochloride is treated under existing law for purposes of aggravated trafficking, trafficking, furnishing and possession. The bill also proposed to provide for possession of any amount of methamphetamine to be a Class C offense, similar to the treatment of heroin under existing law. The bill was the recommendation of the Attorney General.

**Committee Amendment "A" (H-535)** proposed to add a fiscal note to the bill.

### *Enacted law summary*

Public Law 1999, chapter 422 brings the general treatment of methamphetamine into conformity with the treatment of cocaine for persons charged with possession, furnishing and trafficking. This bill treats methamphetamine in virtually the same manner as cocaine hydrochloride, is treated under existing law for purposes of aggravated trafficking, trafficking, furnishing and possession. The bill also provides for possession of any amount of methamphetamine to be a Class C offense, similar to the treatment of heroin under existing law.

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 422 and other drug laws were enacted simultaneously.



**LD 1589****An Act to Require an Assessment Evaluation of Juveniles Entering the Juvenile Justice System****DIED BETWEEN BODIES**Sponsor(s)  
O'BRIEN LCommittee Report  
OTP-AMAmendments Adopted  
H-689

LD 1589 proposed to require that the Department of Corrections provide a juvenile with an assessment evaluation as soon as a juvenile caseworker receives notice of the juvenile's arrest. As proposed, the purpose of an assessment evaluation is to assess the risks the juvenile may pose and to determine the needs the juvenile may have. It was proposed that an assessment evaluation include the following: educational, vocational, psychological, psychiatric and substance abuse examinations.

**Committee Amendment "A" (H-689)** proposed to specify that the assessment evaluation must include sufficient comprehensive evaluation to allow appropriate intervention strategies to be developed for the juvenile. The amendment also proposed to specify that an assessment evaluation must be conducted for every juvenile who is placed on informal adjustment and every juvenile who has been adjudicated of committing a juvenile crime. The amendment also proposed to add a fiscal note to the bill.

**LD 1610****An Act to Require Prior Agreement by Both the Sender and the Receiver for a Recording to Take Place****ONTP**Sponsor(s)  
LONGLEYCommittee Report  
ONTPAmendments Adopted

LD 1610 proposed to amend law regarding interception of wire and oral communications by requiring both the sender and the receiver to agree to the recording of their communication. As proposed, this requirement does not apply if the receiver is a law enforcement officer performing official duties or an employee of the Department of Human Services investigating an abuse and neglect case.

**LD 1632****An Act to Increase Penalties for Certain Drug-related Crimes Committed In or Near Low-income Housing****ONTP**Sponsor(s)  
HARRIMANCommittee Report  
ONTPAmendments Adopted

LD 1632 proposed to amend the Maine Criminal Code to provide that conduct that ordinarily would subject the actor to penalties for unlawful trafficking in scheduled drugs subjects that actor to the higher penalties for aggravated trafficking or furnishing scheduled drugs if conducted on or within 1,000 feet of the real property of low-income housing.

**LD 1658****An Act to Release Juvenile Crime Records to School Personnel****PUBLIC 345**

Sponsor(s)  
CATHCART  
SKOGLUND

Committee Report  
OTP-AM

Amendments Adopted  
S-277

LD 1658 proposed to require that when a petition has been filed against a juvenile for an offense that alleges the use or threatened use of physical force against a person or when a juvenile has been adjudicated as having committed such an offense, the district attorney in the district where the charges were brought shall provide to the superintendent of the juvenile's school or the superintendent's designees the name of the juvenile and other specified information about the charges. As proposed, any information received under these new provisions may not become part of the student's educational record.

**Committee Amendment "A" (S-277)** proposed to direct a superintendent who receives notice from a district attorney that a juvenile has been charged in a juvenile petition to create a notification team. As proposed, a notification team must include the building administrator, a classroom teacher, a parent or guardian and a guidance counselor. The amendment proposed that the notification team would identify which school employees will receive on the basis of need the information provided to the superintendent and team. The amendment further proposed that the superintendent shall ensure that all who have access to juvenile criminal justice information receive confidentiality training.

The amendment also proposed to add a mandate preamble and a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 345 requires that when a petition has been filed against a juvenile for an offense that alleges the use or threatened use of physical force against a person or when a juvenile has been adjudicated as having committed such an offense, the district attorney in the district where the charges were brought shall provide to the superintendent of the juvenile's school or the superintendent's designees the name of the juvenile and other specified information about the charges. Any information received under these new provisions may not become part of the student's educational record.

Upon receipt of the information that a petition has been filed, a superintendent is required to create a notification team. A notification team must include the building administrator, a classroom teacher, a parent or guardian and a guidance counselor. A notification team shall identify which school employees will receive on the basis of need the information provided to the superintendent and team. The superintendent is required to ensure that all who have access to juvenile criminal justice information receive confidentiality training.

**LD 1671**

**An Act to Broaden Victim Notification of Release of Defendant Placed in Institutional Confinement Following a Verdict of Not Criminally Responsible by Reason of Insanity**

**PUBLIC 126**

Sponsor(s)  
POVICH

Committee Report  
OTP

Amendments Adopted

LD 1671 proposed to broaden victim notification of a defendant's release, conditional or unconditional, from institutional confinement under the Maine Revised Statutes, Title 15, section 104-A following involuntary commitment under Title 15, section 103 as a consequence of the defendant having been found not criminally responsible by reason of mental disease or defect. Currently, victim notification of a defendant's release from such confinement applies only to a gross sexual assault victim under 16 years of age. This bill proposed to include a murder victim as well as a victim of any Class A, Class B or Class C crime. The bill was the recommendation of the Department of the Attorney General.

***Enacted law summary***

Public Law 1999, chapter 126 broadens victim notification of a defendant's conditional or unconditional release from institutional confinement under the Maine Revised Statutes, Title 15, section 104-A following involuntary commitment under Title 15, section 103 as a consequence of the defendant having been found not criminally responsible by reason of mental disease or defect. Currently, victim notification of a defendant's release from such confinement applies only to a gross sexual assault victim under 16 years of age. Public Law 1999, chapter 126 expands notification to include a murder victim as well as a victim of any Class A, Class B or Class C crime.

## **LD 1679**

### **An Act Regarding Supervised Community Confinement**

**ONTP**

Sponsor(s)  
PIEH

Committee Report  
ONTP

Amendments Adopted

LD 1679 proposed to repeal the law that prohibits the transferring of a prisoner to supervised community confinement with more than one year remaining on the term of imprisonment or on the unsuspended portion of a split sentence.

## **LD 1685**

### **An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates**

**PUBLIC 369**

Sponsor(s)  
POVICH

Committee Report  
OTP

Amendments Adopted

LD 1685 proposed to provide that information communicated to victim witness advocates and coordinators remains confidential within the office of the prosecutor, except that disclosure may be made to the prosecuting attorney and disclosure must be made to the prosecuting attorney if it involves child abuse; if a court orders an in camera inspection; if a victim dies or is unable to consent; or if evidence is of an exculpatory nature, which also must be disclosed to the defendant. Such communications are currently not explicitly confidential pursuant to law, and some trial judges have ordered that such communications be made available to defendants.

#### ***Enacted law summary***

Public Law 1999, chapter 369 provides that information communicated to victim witness advocates and coordinators remains confidential within the office of the prosecutor, except that disclosure may be made to the prosecuting attorney and disclosure must be made to the prosecuting attorney if it involves child abuse; if a court orders an in camera inspection; if a victim dies or is unable to consent; or if evidence is of an exculpatory nature, which also must be disclosed to the defendant.

## **LD 1698**

### **An Act to Amend the Restitution Law for Prisoners**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E KIEFFER	ONTP	

LD 1698 proposed to allow counties to recapture part of the cost of booking inmates.

**LD 1708                      An Act to Amend the Home-release Monitoring Program                      PUBLIC 247**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHEELER E KIEFFER	OTP-AM	H-417

LD 1708 proposed to amend the home-release monitoring program to allow an inmate to be released and monitored electronically or to be intensively supervised, pursuant to standards established by the Commissioner of Corrections for intensive supervision. The bill also proposed to expand the eligibility requirements for the program. Current law requires a person serving a sentence of less than 30 days to actually serve at least 2/3 of the sentence and a person serving a sentence of 30 days or more to serve at least 1/2 of the sentence before the person may participate in home release monitoring. The bill proposed to change the minimum times to 2 days and 5 days, respectively. The bill also proposed to repeal the provision that limits eligibility for home-release monitoring to persons serving Class C, D, or E crimes or offenses under the inland fisheries and wildlife or motor vehicle laws.

**Committee Amendment "A" (H-417)** proposed to remove that part of the bill that deletes the limitation for the home-release monitoring program concerning the crime for which the inmate is serving the sentence. The amendment proposed to change the limitations for eligibility by deleting the requirement that the inmate have no history of escape or violent behavior and by adding that the offense for which the inmate is serving a sentence is not a sex offense. It also proposed to change the minimum time an inmate must serve to be eligible for home-release monitoring to one-third of the sentence for all sentences and to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 247 amends the home-release monitoring program to allow an inmate to be released and monitored electronically or to be intensively supervised, pursuant to standards established by the Commissioner of Corrections for intensive supervision. Public Law 1999, chapter 247 changes the limitations for eligibility by deleting the requirement that the inmate have no history of escape or violent behavior and by adding that the offense for which the inmate is serving a sentence is not a sex offense. It also changes the minimum time an inmate must serve to be eligible for home-release monitoring to one-third of the sentence for all sentences.

**LD 1721                      An Act to Create the Sex Offender Registration and Notification Act of 1999                      PUBLIC 437**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MURRAY O'BRIEN L	OTP-AM	H-679 COLWELL S-332

LD 1721 proposed to create the Sex Offender Registration and Notification Act of 1999, which provides for the registration of sex offenders and sexually violent predators in order to conform with federal law. The bill proposed to expand the scope of the definition of "sex offender" for purposes of registration to include juveniles and adults convicted of a sex offense.

The bill proposed to add “sexually violent predator” as a new category of persons who must register.

The bill proposed to increase the type of identifying information for sex offenders and sexually violent predators that must be kept by the State Bureau of Identification and direct the bureau to forward registration information to the Federal Bureau of Investigation for inclusion in the national sex offender database. The bill proposed to set guidelines for sex offender responsibilities regarding registration and creates a Class D crime for failure to comply with sex offender registration requirements, which may be enhanced to a Class C crime if offender has 2 or more violations.

The bill also proposed that no changes be made to the current notification law and proposed to establish a provision to grant law enforcement officials immunity from liability for release of sex offender information.

This bill was submitted on behalf of the Department of Public Safety.

**Committee Amendment "A" (S-332)** proposed to clarify which offenses fall under the definitions of "sex offender" and "sexually violent predator" for purposes of registration. The amendment also proposed to clarify that only a notation that an offender received treatment is necessary for purposes of registration. The amendment proposed to require sex offenders and sexually violent predators to pay an initial \$25 fee for registration and an annual \$25 fee on the anniversary of their registration for registration and domicile verification. The amendment also proposed to add an appropriation, an allocation and a fiscal note to the bill.

**House Amendment "A" (H-679)** was presented on behalf of the Committee on Engrossed Bills and proposed to correctly identify persons to whom the bill applies.

***Enacted law summary***

Public Law 1999, chapter 437 creates the Sex Offender Registration and Notification Act of 1999, which provides for the registration of sex offenders and sexually violent predators in order to conform with federal law. Public Law 1999, chapter 437 expands the scope of the definition of “sex offender” for purposes of registration to include juveniles and adults convicted of a sex offenses.

Public Law 1999, chapter 437 adds “sexually violent predator” as a new category of persons who must register.

Public Law 1999, chapter 437 increases the type of identifying information for sex offenders and sexually violent predators that must be kept by the State Bureau of Identification and directs the bureau to forward registration information to the Federal Bureau of Investigation for inclusion in the national sex offender database. Public Law 1999, chapter 437 sets guidelines for sex offender responsibilities regarding registration and creates a Class D crime for failure to comply with sex offender registration requirements, which may be enhanced to a Class C crime if offender has 2 or more violations.

Public Law 1999, chapter 437 requires sex offenders and sexually violent predators to pay a fee to cover the costs of registration and verification of registration.

Public Law 1999, chapter 437 does not change the current notification process.

**LD 1758**

**An Act to Amend the Victims' Compensation Fund Law**

**PUBLIC 360**

Sponsor(s)  
MCGLOCKLIN  
O'GARA

Committee Report  
OTP-AM

Amendments Adopted  
H-421  
H-465 POVICH

LD 1758 proposed to:

1. Expand the category of harm that gives rise to the application of laws under Victims' Compensation Fund to include psychological injury when the victim sustains bodily injury or a threat of bodily injury;
2. Provide coverage to victims of stalking, terrorizing and criminal threatening, including victims of domestic abuse;
3. Clarify the list of eligible expenses and losses and add costs of cleaning up a crime scene;
4. Remove the requirement of notarization of an application; and
5. Subject an applicant to the penalties for unsworn falsification.

This bill was the recommendation of the Attorney General.

**Committee Amendment "A" (H-421)** proposed to:

1. Strike superfluous language regarding bodily injury from the provision dealing with eligibility;
2. Provide that a signed application is effective under state law to authorize the release of health care and employment information. The signed application would comply with the Maine Revised Statutes, Title 22, section 1711-C, subsection 3;
3. Authorize the Department of the Attorney General to hire one Research Assistant to help administer the Victims' Compensation Fund; and
4. Add a fiscal note and an allocation provision to the bill.

**House Amendment "A" to Committee Amendment "A" (H-465)** proposed to change language regarding the circumstances under which a victim is eligible for compensation based on psychological injury from the Victims' Compensation Fund.

***Enacted law summary***

Public Law 1999, chapter 360 does the following:

1. Expands the category of harm that gives rise to the application of laws under Victims' Compensation Fund to include psychological injury when the victim sustains bodily injury or a threat of bodily injury.
2. Allows victims of stalking, terrorizing and criminal threatening, including victims of domestic abuse, to be eligible for benefits;
3. Clarifies the list of eligible expenses and losses and adds costs of cleaning up a crime scene;
4. Removes the requirement of notarization of an application;
5. Makes an applicant subject to the penalties for unsworn falsification;
6. Provides that a signed application is effective under state law to authorize the release of health care and employment information. The signed application would comply with the Maine Revised Statutes, Title 22, section 1711-C, subsection 3; and
7. Authorizes the Department of the Attorney General to hire one Research Assistant to help administer the Victims' Compensation Fund.

**LD 1782****An Act to Amend the Maine Criminal Code Regarding Improper Gifts****PUBLIC 149**Sponsor(s)  
CAREYCommittee Report  
OTPAmendments Adopted

LD 1782 proposed to amend the laws governing the crime of improper gifts to public servants to more closely align these laws with the laws governing legislative ethics.

***Enacted law summary***

Public Law 1999, chapter 149 amends the laws governing the crime of improper gifts to public servants to more closely align these laws with the laws governing legislative ethics. PL 1999, chapter 149 adds another element of proof that requires showing of a quid pro quo benefit, instead of the potential for such a benefit. Specifically, a public servant may not accept a pecuniary benefit if the public servant knows or should know that purpose of the benefit is to influence that public servant's actions or reward that public servant for past actions.

**LD 1803****An Act to Revoke Probation and Require Incarceration for Repeated Domestic Abuse****CARRIED OVER**Sponsor(s)  
CATHCARTCommittee ReportAmendments Adopted

LD 1803 proposes to require probation officers to arrest and bring a motion to revoke the probation of a person who, while on probation, commits a criminal violation of a protection from abuse order issued against that person. The bill also proposes to require the court to revoke probation if the court finds by a preponderance of the evidence that the person committed the crime.

This bill has been carried over to the Second Regular Session.

**LD 1821****An Act to Expressly Treat Involuntary Conduct as a Defense in the Maine Criminal Code****PUBLIC 195**Sponsor(s)Committee Report  
OTPAmendments Adopted  
H-339 POVICH

LD 1821 proposed to remove "voluntary conduct" from the Maine Revised Statutes, Title 17-A, section 31 in chapter 2 of the Maine Criminal Code and enact a new section 103-B in chapter 5. New section 103-B proposed to treat the issue as a "defense" under section 101, subsection 4 of the Maine Criminal Code, rename the issue "involuntary conduct" and describe what constitutes involuntary rather than voluntary conduct. Although in State v. Case, 672 A.2d 586 (Me. 1996) the Law Court treated section 31 as a "defense," in State v. Therrien, 695 A.2d 119 (Me. 1997), p. 123 n. 7 the Court stated that "Section 31 does not fall within the purview of and must be distinguished from the general rules governing defenses; affirmative defenses and justification set forth in Chapter 5 of 17-A M.R.S.A. (1983)." State v. Therrien leaves unclear how the issue of "voluntary conduct" is to be legally treated, in view of the court's assertion that the general rules of chapter 5 are inapplicable. The bill proposed to seek to clarify this ambiguity.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

**House Amendment "A" (H-339)** proposed to change the title to clarify that involuntary conduct is a defense in the Maine Criminal Code.

*Enacted law summary*

Public Law 1999, chapter 195 removes "voluntary conduct" from the Maine Revised Statutes, Title 17-A, section 31 in chapter 2 of the Maine Criminal Code and enacts a new section 103-B in chapter 5. New section 103-B expressly treats the issue as a "defense" under section 101, subsection 4 of the Maine Criminal Code, renames the issue "involuntary conduct" and describes what constitutes involuntary rather than voluntary conduct.

**LD 1858                      An Act to Amend the Possession of Firearms by Felons                      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JABAR RUHLIN		

LD 1858 proposes to prohibit the use, possession and control of a firearm by a person convicted of certain Class D or Class E crimes of domestic violence. The prohibition lasts until the person has served the sentence resulting from the conviction.

A crime of domestic violence is defined as a crime in which:

1. The person used or attempted to use physical force, or threatened to use a deadly weapon; and
2. The person and the victim have or had a family-like relationship. Specifically, the person committing the crime must be a current or former spouse, parent or guardian of the victim; a person with whom the victim has a child; or a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian or has a similar relationship.

In addition, the person who was convicted must have had the assistance of counsel in the proceeding or must have knowingly and intelligently waived the assistance of counsel. A final requirement is that if the person had a right to a jury trial for the domestic violence prosecution, then the case must have been tried by a jury or the person must have knowingly and intelligently waived the right to a trial by jury.

This bill has been carried over to the Second Regular Session.

**LD 1871                      An Act to Revise Procedures for Probation Revocation                      PUBLIC 246**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-427



LD 1871 proposed to restructure the laws governing probation revocation and probation violation. The bill proposed to separate the procedures for probation revocation by arrest and by summons and also make the following substantive changes.

1. Require that when a person arrested for a violation of probation is held subsequent to a preliminary hearing, the motion for probation revocation must be filed within five days of the arrest. In addition, when such a person is not sooner released, an initial appearance must be held by the court within 14 days of the arrest;
2. Codify the practice that has developed whereby initial appearances are conducted on motions for revocation of probation and set forth procedures governing initial appearances on motions to revoke probation;
3. Make clear that a court may find a violation of probation, but nevertheless utilize none of the initially suspended sentence. This commonly occurs when a person on probation admits a violation of probation but, prior to final disposition, remedies the situation to the satisfaction of the attorney for the State and the court, for example, by paying restitution owed. The bill proposed to eliminate an ambiguity that exists under current law as to whether this practice is authorized and make clear that the running of the period of probation is tolled between the date the proceedings are commenced and the date of final disposition, even if no part of the original suspension order is modified; and
4. Provide the same protection to persons entering into an agreement with the attorney for the State for disposition of a motion to revoke probation as is currently provided under the Maine Rules of Criminal Procedure for persons entering guilty pleas to substantive charges. As proposed, the person on probation is provided the opportunity to withdraw that person's admission if the court deems the agreed upon disposition too lenient and intends to enter a harsher disposition than that agreed to.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

**Committee Amendment "A" (H-427)** proposed to do the following:

1. Clarify that a preliminary hearing is not required if a person is charged with or convicted of a new offense and is incarcerated as a result of the pending charge or conviction;
2. Specify that a motion for probation revocation must be approved by the prosecuting attorney;
3. Continue to use failure to hold a preliminary hearing as grounds for a person's release;
4. Specify that at an initial appearance the court shall advise the probationer of the right to be represented by counsel at a hearing and that if the probationer can not afford counsel the court shall appoint counsel.

***Enacted law summary***

Public Law 1999, chapter 246 restructures the laws governing probation revocation and probation violation. It separates the procedures for probation revocation by arrest and by summons. Specifically, Public Law 1999, chapter 246 makes the following substantive changes:

1. Requires that when a person arrested for a violation of probation is held subsequent to a preliminary hearing, the motion for probation revocation must be filed within five days of the arrest and when such a person is not sooner released, an initial appearance must be held by the court within 14 days of the arrest;
2. Clarifies that a preliminary hearing is not required if a person is charged with or convicted of a new offense and is incarcerated as a result of the pending charge or conviction;

3. Specifies that a motion for probation revocation must be approved by the prosecuting attorney;
4. Continues to use failure to hold a preliminary hearing as grounds for a person's release;
5. Specifies that at an initial appearance the court shall advise the probationer of the right to be represented by counsel at a hearing and that if the probationer can not afford counsel the court shall appoint counsel.
6. Codifies the practice that has developed whereby initial appearances are conducted on motions for revocation of probation and sets forth procedures governing initial appearances on motions to revoke probation.
7. Makes clear that a court may find a violation of probation, but nevertheless utilize none of the initially suspended sentence.
8. Makes clear that the running of the period of probation is tolled between the date the proceedings are commenced and the date of final disposition, even if no part of the original suspension order is modified; and
9. Provides a person on probation the opportunity to withdraw that person's admission if the court deems the agreed upon disposition too lenient and intends to enter a harsher disposition than that agreed to.

**LD 1878**

**An Act to Make More Uniform the Training of Firefighters**

**VETO  
SUSTAINED**

Sponsor(s)  
RUHLIN  
BERRY R

Committee Report  
OTP-AM

Amendments Adopted  
S-194

LD 1878 proposed that the Maine Fire Training and Education Program of the Maine Technical College System provide a centralized training resource center for firefighters of the State. Specifically, the bill proposed that the Maine Fire Training and Education Program ensure that more firefighters are trained in local communities statewide. As proposed, training must be offered annually and must be free of charge. The program proposed to increase grant funds available to local communities to support construction of specialized training facilities where the State's firefighters can practice life-saving skills; provide firefighters with the opportunity for fire science education and leadership education through available distance learning technologies, including interactive television and the Internet; ensure that local fire departments have current training and education materials and equipment to prepare members for fires and other community emergencies; provide a one-stop resource center for firefighters and citizens; and support the development of fire and emergency leaders throughout the State.

**Committee Amendment "A" (S-194)** proposed that the Maine Fire Training and Education Program of the Maine Technical College System provide a centralized training resource center for firefighters of the State. Specifically, the amendment proposed that the Maine Fire Training and Education Program shall provide a one-stop resource center for training materials. As proposed, the program must strengthen curriculum development to ensure that materials meet applicable regulations and can be customized for local use, and the program must strengthen firefighter certification to increase training uniformity and local recognition. The amendment also proposed to add an appropriation section and a fiscal note to the bill.

LD 1878, as amended, was enacted but subsequently vetoed by the Governor.

**LD 1892**

**An Act to Refine Certain Theft Provisions in the Law**

**ONTP**

Sponsor(s)  
NUTTING J  
BUMPS

Committee Report  
ONTP

Amendments Adopted

LD 1892 proposed to make failure to provide payment on a bad check a Class E crime. The bill also proposed to require that the court order the defendant to pay restitution in the amount of the bad check.

**LD 1899**

**Resolve, to Require the Department of Public Safety to Study the Security and Protection of State Government Employees**

**CARRIED OVER**

Sponsor(s)  
BUMPS  
PENDLETON

Committee Report

Amendments Adopted

LD 1899 proposes to require the Department of Public Safety, within its existing resources, to study current measures affecting the safety of state employees and to report to the Joint Standing Committee on Criminal Justice and the Joint Standing Committee on State and Local Government not later than February 1, 2000. Pursuant to the bill, the committees may report out legislation regarding this study.

This bill has been carried over to the Second Regular Session.

**LD 1909**

**An Act to Provide Continuing Financial Support for the Maine Community Policing Institute at the University of Maine at Augusta**

**PUBLIC 357**

Sponsor(s)  
MCALEVEY  
DAVIS P

Committee Report  
OTP-AM

Amendments Adopted  
H-559

LD 1909 proposed to create the Maine Community Policing Institute Surcharge Fund. As proposed, the fund would be established by collecting an additional 2% surcharge on every fine, forfeiture or penalty imposed by any court in the State in order to fund the Maine Community Policing Institute, which is funded through a federal grant.

**Committee Amendment "A" (H-559)** proposed to do the following:

1. Shift the administration of the Maine Community Policing Institute from the Department of Education to the University of Maine System;
2. Require the Maine Community Policing Institute to report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice matters;
3. Specify that the Judicial Department may incur expenses up to \$11,000 in fiscal years ending June 30, 2000 and June 30, 2002 to implement administration of the 2% surcharge and to amend the system when the surcharge is repealed;

4. Provide that the surcharge created to fund the Maine Community Policing Institute is repealed on September 30, 2001; and
5. Add an allocation section and a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 357 creates the Maine Community Policing Institute Surcharge Fund. The fund is established by collecting an additional 2% surcharge on every fine, forfeiture or penalty imposed by any court in the State. Funds collected through the additional surcharge must be paid to the University of Maine System to fund the Maine Community Policing Institute. Public Law 1999, chapter 357 directs the Maine Community Policing Institute to report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice matters. The Judicial Department may incur expenses up to \$11,000 in fiscal years ending June 30, 2000 and June 30, 2002 to implement administration of the 2% surcharge and to amend the system when the surcharge is repealed on September 30, 2001.

**LD 1912**

**An Act to Provide for Tougher Treatment of Drunk Drivers**

**ONTP**

Sponsor(s)  
BAKER

Committee Report  
ONTP

Amendments Adopted

Current law allows a law enforcement officer at the officer's discretion to impound the vehicle of a person who is arrested for operating the motor vehicle under the influence of intoxicants. LD 1912 proposed to require a law enforcement officer to impound the motor vehicle of a person arrested for operating the vehicle under the influence if the person:

1. Was under 21 years of age;
2. Has at least one conviction of operating under the influence within the past 10 years;
3. Was tested as having a blood-alcohol level of 0.15% or higher;
4. Was exceeding the speed limit by 30 miles per hour or more;
5. Eluded or attempted to elude an officer;
6. Was operating with a passenger under 21 years of age; or
7. Failed to submit to a blood-alcohol test at the request of a law enforcement officer.

This bill proposed to require that the motor vehicle be impounded at the time of the arrest and to prohibit the release of the vehicle for a period of not less than 48 hours after the time of impoundment. The bill proposed that the owner of the motor vehicle pay all of the expenses incident to the impoundment and storage of the vehicle and a \$100 impoundment fee to the law enforcement agency whose officer ordered the motor vehicle impounded to pay the expenses of the law

enforcement agency in conducting the impoundment. As proposed, an owner of an impounded motor vehicle may not recover the motor vehicle until all expenses and the impoundment fee are paid and the owner, if the owner is the person arrested, passes a blood-alcohol test. Finally, this bill proposed to hold harmless the law enforcement agency or person or entity who impounded, towed or stored the motor vehicle.

**LD 1925**                      **An Act to Deter Environmental Terrorism in the State**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KILKELLY CAMERON	ONTP	

LD 1925 proposed to establish the Class C crime of environmental terrorizing, which is the destruction of property or the interference with a place of business's normal course of business by individuals or groups for the primary purpose of making a political statement on natural resource and environmental issues.

**LD 1933**                      **An Act to Promote Sharing of Information Between Schools and Criminal Justice Agencies**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN		

Current law allows a juvenile court to distribute information about a juvenile offender to a criminal justice agency and the juvenile's school.

This bill proposes to allow the juvenile's school to distribute information about the juvenile to the court and a criminal justice agency under certain conditions. The information would remain confidential and not be distributed further.

This bill has been carried over to the Second Regular Session.

**LD 1936**                      **An Act to Modify the Juvenile Code with Regard to the Service of Juvenile Summonses**                      **PUBLIC 266**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN	OTP-AM	S-193

LD 1936 proposed to allow police officers to summons a juvenile to court at the time of the juvenile's arrest. This bill also proposed to codify the requirements of the Maine Rules of Criminal Procedure regarding the manner of service of summons.

**Committee Amendment "A" (S-193)** proposed to make a technical correction and add a mandate preamble and fiscal note to the bill.

*Enacted law summary*

Public Law 1999, chapter 266 allows law enforcement officers to summons a juvenile to court at the time of the juvenile's arrest.

**LD 1937                      An Act to Allow the State to Obtain a Defendant's Medical Records in Cases Involving OUI                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARRIMAN	ONTP      MAJ	
	OTP-AM    MIN	

LD 1937 proposed to allow a defendant's hospital records that contain blood-alcohol results to be available to the State through ordinary discovery procedures. The bill also proposed to allow the discovery of any medical records related to the treatment of an injury suffered by a defendant who is charged with operating a motor vehicle or watercraft while intoxicated if the defendant denies culpability for the accident that caused the injury.

**Committee Amendment "A" (S-207)** was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to limit the discovery of medical records of the defendant to situations in which another person has suffered serious bodily injury or death. This amendment was not adopted.

**LD 1944                      An Act to Establish the Crime of Assault Against Sports Officials                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MACDOUGALL	ONTP	
MACKINNON		

LD 1944 proposed to make assault against a sports official a Class C crime punishable by a fine of \$10,000 and imprisonment of not more than three years.

**LD 1996                      An Act to Allow the Forfeiture of Firearms Seized during a Lawful Search for Scheduled Drugs                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP	

LD 1996 proposed to amend the firearms forfeiture laws to require a defendant who is convicted of a drug offense to forfeit, if the State requests, any firearm seized during a lawful search for drugs during which drugs were found.

**LD 2003                      An Act to Allow A Municipal Officer to Accept Forfeited Assets to Expedite the Administration of Drug Case Prosecution                      ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP	

LD 2003 proposed to allow the municipal officers, rather than the voters at a town meeting, to accept a drug trafficker's forfeited assets as conveyed to the municipality by a court of law. As proposed, the change would expedite the closing of

drug prosecution cases that otherwise must remain open until the convening of the affected municipalities' town meetings.

LD 2011, An Act to Amend the Laws Regarding Asset Forfeiture, Public Law 1999, chapter 408 incorporates the changes proposed in LD 2003.

LD 2009

An Act to Redefine Trafficking and Furnishing of Heroin in Terms of the Amount of the Drug Possessed

PUBLIC 453

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	OTP-AM	H-456

LD 2009 proposed to bring the treatment of heroin into conformity with the treatment of other similarly dangerous drugs under the criminal code and eliminate the concept of "presumption" as to intent. The bill proposed that the definition of "trafficking" include the possession of 2 or more grams or 90 or more packets of heroin with no further proof of intent needed. The bill proposed to amend the definition of "furnishing" to include the possession of one or more but less than 2 grams or 45 or more but less than 90 packets of heroin with no further proof of intent required. The bill does not propose to change current law in that possession of any amount of heroin with the intent to do any act in the Maine Revised Statutes, Title 17-A, section 1101, subsection 17, paragraph C continues to be "trafficking" and possession of any amount of heroin with the intent to do any act in Title 17-A, section 1101, subsection 18, paragraph A continues to be "furnishing." The bill also proposed to provide for the trafficking of 4 or more grams or more than 180 packets of heroin to be included in the offense of aggravated trafficking in or furnishing of scheduled drugs, also to bring the treatment of heroin in line with the treatment of cocaine and cocaine base. The amounts of heroin referred to in the bill, 45, 90 and 180 packets, relate to the common practice of selling heroin in increments of 50 packets and the tendency of addict-traffickers to consume several packets of the drug during the trip from the source city, usually out of state, to their place of residence in Maine.

**Committee Amendment "A" (H-456)** proposed to change from 4 grams to 6 grams and from 180 bags to 270 bags the amount of heroin required for aggravated trafficking or furnishing. The amendment also proposed to add a fiscal note to the bill.

*Enacted law summary*

Public Law 1999, chapter 453 brings the treatment of heroin into conformity with the treatment of other similarly dangerous drugs under the criminal code and eliminates the concept of "presumption" as to intent. Public Law 1999, chapter 453 provides for the definition of "trafficking" to include the possession of 2 or more grams or 90 or more packets of heroin with no further proof of intent needed. The definition of "furnishing" is amended to include the possession of one or more but less than 2 grams or 45 or more but less than 90 packets of heroin with no further proof of intent required. Public Law 1999, chapter 453 does not change current law in that possession of any amount of heroin with the intent to do any act in the Maine Revised Statutes, Title 17-A, section 1101, subsection 17, paragraph C continues to be "trafficking" and possession of any amount of heroin with the intent to do any act in Title 17-A, section 1101, subsection 18, paragraph A continues to be "furnishing." Public Law 1999, chapter 453 also provides for the trafficking of 4 or more grams or more than 180 packets of heroin to be included in the offense of aggravated trafficking in or furnishing of scheduled drugs, also to bring the treatment of heroin in line with the treatment of cocaine and cocaine base.

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 453 and other drug laws were enacted simultaneously.

## LD 2011

### An Act to Amend the Laws Regarding Asset Forfeiture

PUBLIC 408

Sponsor(s)  
SCHNEIDER

Committee Report  
OTP-AM

Amendments Adopted  
H-619

LD 2011 proposed to provide that property subject to forfeiture may be proceeded against by complaint in District Court. The bill also proposed to provide that the court may order forfeiture of as much property as is appropriate to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case.

**Committee Amendment "A" (H-619)** proposed to add language to allow the municipal officers, instead of voters at a town meeting, to accept forfeited assets conveyed to a municipality by a court of law. The amendment also proposed to allow the Attorney General as well as the Governor to approve the transfer of title of property in order to transfer a forfeited asset which will expedite the closing of drug prosecution cases. The amendment also proposed to add a fiscal note to the bill.

#### *Enacted law summary*

Public Law 1999, chapter 408 expedites the closing of drug prosecution cases by:

1. Providing that property subject to forfeiture may be proceeded against by complaint in District Court;
2. Providing that the court may order forfeiture of as much property as is appropriate to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case;
3. Allowing the municipal officers to accept forfeited assets conveyed to a municipality by a court of law; and
4. Allowing the Attorney General to approve the transfer of title of property in order to transfer a forfeited asset.

## LD 2012

### An Act to More Accurately Describe the Criminal Conduct Committed When a Person Grows or Cultivates Marijuana

PUBLIC 374

Sponsor(s)  
SCHNEIDER

Committee Report  
OTP-AM

Amendments Adopted  
H-561

LD 2012 proposed to create the new crime of marijuana cultivation and eliminate the inclusion of growing or cultivating marijuana under the crime of trafficking. As proposed, the penalties for the new crime of marijuana cultivation are the same as they had been when included under the offense of trafficking. As proposed, marijuana cultivation is treated the same as trafficking for purposes of aggravation of charges under the Maine Revised Statutes, Title 17-A, section 1105.

**Committee Amendment "A" (H-561)** proposed to clarify that only the cultivation of marijuana is excepted from the crime of trafficking. The amendment proposed to specify that a person who grows or cultivates 5 or fewer plants is guilty of a Class E crime. The amendment also proposed to add a fiscal note to the bill.

#### *Enacted law summary*



Public Law 1999, chapter 374 creates the new crime of marijuana cultivation and eliminates the inclusion of growing or cultivating marijuana under the crime of trafficking. The penalties for the new crime of marijuana cultivation are the same as they had been when included under the offense of trafficking. Marijuana cultivation is treated the same as trafficking for purposes of aggravation of charges under the Maine Revised Statutes, Title 17-A, section 1105. Public Law 1999, chapter 374 also specifies that it is a Class E crime to grow or cultivate 5 or fewer plants.

Public Law 1999, chapter 374 incorporates LD 48, “An Act to Amend the Definition of “Traffick” in the Drug Laws.”

Note: LD 2255, An Act to Make Corrections to Laws Recently Enacted by the 119th Legislature, Public Law 1999, chapter 531 corrects conflicts that were created when P. L. 1999, c. 374 and other drug laws were enacted simultaneously.

**LD 2018**                      **An Act to Simplify the Rule of Reasonable Belief in the Maine Criminal Code**                      **PUBLIC 358**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 2018 proposed to provide that in the event a defense is precluded solely because the statutory requirement that the person's belief be reasonable has not been met, conviction of a crime for which recklessness or criminal negligence suffices is nonetheless available to the State if the State can prove beyond a reasonable doubt to the fact finder that the person's holding of the belief is grossly deviant from what a reasonable and prudent person would believe in the same situation. As proposed, the modification would eliminate the current requirement that holding the belief be analyzed under the distinct culpable mental states of acting "recklessly" or with "criminal negligence," as defined in the Maine Revised Statutes, Maine Criminal Code, Section 35, and also the further requirement for criminal liability that the crime charged be satisfied by the same culpable mental state. See, e.g., *State v. Davis*, 528 A.2d 1267, 1269-1270 (Me. 1987) (in the context of a self-defense claim in an assault case); *State v. Lagasse*, 410 A.2d 537, 543 (Me. 1980) (in the context of a self-defense claim in a manslaughter case).

This bill was submitted on behalf of the Criminal Law Advisory Commission.

***Enacted law summary***

Public Law 1999, chapter 358 provides that in the event a defense is precluded solely because the statutory requirement that the person's belief be reasonable has not been met, conviction of a crime for which recklessness or criminal negligence suffices is nonetheless available to the State if the State can prove beyond a reasonable doubt to the fact finder that the person's holding of the belief is grossly deviant from what a reasonable and prudent person would believe in the same situation. The modification eliminates the current requirement that holding the belief be analyzed under the distinct culpable mental states of acting "recklessly" or with "criminal negligence," as defined in the Maine Revised Statutes, Maine Criminal Code, Section 35, and also the further requirement for criminal liability that the crime charged be satisfied by the same culpable mental state.

**LD 2019**                      **An Act to Remove the Statute of Limitations for Unlawful Sexual Contact and Sexual Abuse of Minors**                      **PUBLIC 438**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u>
SAXL M		H-536

LD 2019 proposed to eliminate the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16, or 18 if the perpetrator was a school employee.

**Committee Amendment "A" (H-536)** proposed to eliminate the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16. The amendment also proposed to add an application section and a fiscal note to the bill.

*Enacted law summary*

Public Law 1999, chapter 438 eliminates the statute of limitations for criminal prosecution for unlawful sexual contact or sexual abuse of minors if the victim was under the age of 16. Public Law 1999, chapter 585 similarly eliminated the statute of limitations for criminal prosecution for gross sexual assault or incest if the victim was under the age of 16 at the time of the crime.

**LD 2021                      Resolve, to Establish the Commission to Propose an Alternative Process  
for Forensic Examinations for Sexual Assault Victims                      RESOLVE 84  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NORBERT LONGLEY	OTP-AM	H-455 S-232 MURRAY S-457 MICHAUD

LD 2021 was a concept bill draft pursuant to Joint Rule 208. This bill proposed to establish an alternative process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims.

**Committee Amendment "A" (H-455)** proposed to replace the bill. The amendment proposed to create a resolve to establish the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims. As proposed, the commission, with the assistance of experts and interested parties, would review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims; identify needs of sexual assault victims; review other states' processes for providing forensic examinations; and make necessary recommendations to propose changes to the State's current process. The amendment proposed that the commission report its findings to the Joint Standing Committee on Criminal Justice by December 15, 1999. The amendment also proposed to add a fiscal note to the resolve.

**Senate Amendment "A" to Committee Amendment "A" (S-232)** proposed to change the membership of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims by removing the President of the Maine Association of Criminal Defense Lawyers and adding the Executive Director of the Maine Hospital Association.

**Senate Amendment "B" to Committee Amendment "A" (S-457)** proposed to clarify that, following the receipt of the commission's report, the Joint Standing Committee on Criminal Justice may report out a bill to the Second Regular Session of the 119th Legislature. The amendment also proposed to strike language that entitles members other than Legislators to a per diem equal to the legislative per diem.

*Enacted law summary*

Resolve 1999, chapter 84 establishes the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims. The commission, with the assistance of experts and interested parties, is required to review the current process for providing forensic examinations, medical treatment and reimbursement for these services to sexual assault victims; identify needs of sexual assault victims; review other states' processes for providing forensic

examinations; and make necessary recommendations to propose changes to the State's current process. The commission shall report its findings to the Joint Standing Committee on Criminal Justice by December 15, 1999.

Resolve 1999, chapter 84 was enacted as an emergency measure effective June 17, 1999.

**LD 2031**

**An Act to Amend the Laws Relating to Issuance of a Warrant in the Name of the District Court**

**PUBLIC 368**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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LD 2031 proposed to eliminate the current bar, absent consent by the defendant, to a Judge of the District Court sitting at the trial stage in a criminal matter as to which that judge issued before the trial a warrant for the arrest of the defendant based upon a finding of probable cause for that charged crime. It also proposed to provide that when an information charging a person with the commission of an offense is presented to any judge of the District Court, to a justice of the peace or to any other officer of the District Court authorized to issue process, the judge, justice of the peace or other officer shall issue a warrant in the name of the District Court for the arrest of that person. An information, like a criminal complaint, is a charging instrument utilized in the District Court. Finally, the bill proposed to remove additional language now addressed in the Maine Code of Judicial Conduct, the Code of Professional Responsibility and the Maine Rules of Criminal Procedure.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

*Enacted law summary*

Public Law 1999, chapter 368 eliminates the current bar, absent consent by the defendant, to a Judge of the District Court sitting at the trial stage in a criminal matter as to which that judge issued before the trial a warrant for the arrest of the defendant based upon a finding of probable cause for that charged crime. It also provides that when an information charging a person with the commission of an offense is presented to any judge of the District Court, to a justice of the peace or to any other officer of the District Court authorized to issue process, the judge, justice of the peace or other officer shall issue a warrant in the name of the District Court for the arrest of that person. Finally, Public Law 1999, chapter 368 removes additional language now addressed in the Maine Code of Judicial Conduct, the Code of Professional Responsibility and the Maine Rules of Criminal Procedure.

**LD 2069**

**An Act to Establish a Critical Incident Review Panel Regarding Physical Force Used by Officers Causing Serious Bodily Injury or Death to Another Person**

**CARRIED OVER**

<u>Sponsor(s)</u> LAVERDIERE	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 2069 proposes to require that any investigation conducted by the Attorney General or a law enforcement agency of any incident in which a law enforcement officer used physical force in performing that officer's duties that resulted in serious bodily injury or death to another person be completed within 30 days.

The bill also proposes to establish a critical incident review panel to review the use of physical force by law enforcement or corrections officers that results in serious bodily injury or death to another person.

This bill has been carried over to the Second Regular Session.

**LD 2070**

**An Act to Protect Library Materials in Circulation**

**PUBLIC 262**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP DAVIS P	OTP-AM	H-416

LD 2070 proposed to protect library and museum materials possessed by a person pursuant to a borrower's agreement by clarifying that unlawful retention of these materials is theft. It also proposed to create a new crime, "theft or destruction of institutional property." As proposed, a person is guilty of this crime if the person takes, uses or exercises control over or defaces or destroys property of a library, school, college, museum, church or public institution. The class of crime is based on the value of property and whether it can be replaced. The bill also proposed that as an alternative to criminal prosecution, an offender may be charged with a civil violation and the court must order restitution.

**Committee Amendment "A" (H-416)** proposed to rename the title to reflect the scope of the bill and strike the provision that created the new crime, theft or destruction of institutional property. The amendment also proposed to add a fiscal note to the bill.

***Enacted law summary***

Public Law 1999, chapter 262 protects library and museum materials possessed by a person pursuant to a borrower's agreement by clarifying that unlawful retention of these materials is theft.

**LD 2093**

**An Act to Authorize the Disposition of Forfeited Firearms**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SCHNEIDER	ONTP	

LD 2093 proposed to set the guidelines by which a law enforcement agency may dispose of a forfeited firearm. The Criminal Justice Committee dealt with issues relating to forfeited firearms in LD 99, An Act to Require Auctions for Confiscated Firearms, that was enacted as Public Law 1999, chapter 47.

**LD 2098**

**An Act to Improve the Safety of Firefighters**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE DOUGLASS	ONTP	

LD 2098 proposed to require structures that use trusses in the floor or roof or parts of the floor or roof to display an emblem on the building signifying that construction and the materials used in the truss construction. As proposed, the purpose is to increase the protection to firefighters by informing them that trusses are present. As proposed, a violation for noncompliance is a Class E crime.

The bill also proposed to provide a voluntary statewide recommendation for a uniform program of identifying dangerous or vacant properties to further protect firefighters.

**LD 2118****Resolve, to Establish the Commission to Study Alternative Uses for  
Unused Maine Youth Center Land and Buildings****INDEF PP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
QUINT	OTP-AM	H-558
RAND		H-587 CAMERON

LD 2118 proposed to create the Study Commission to Create and Submit a Master Plan for the Future Use of the Existing Land and Buildings at the Maine Youth Center.

**Committee Amendment "A" (H-558)** proposed to change the title of the resolve to establish the Commission to Study Alternative Uses for Unused Maine Youth Center Land and Buildings. The amendment proposed to add to the membership a representative of the City of South Portland who has planning expertise. The amendment also proposed to direct the Office of Policy and Legal Analysis to provide staffing and add an emergency preamble and emergency clause and provisions regarding compensation, commission meetings and a work plan to the resolve. The amendment also proposed to add a fiscal note.

**House Amendment "A" to Committee Amendment "A" (H-587)** was presented on behalf of the Committee on Bills in the Second Reading and proposed to change the date by which the commission was required to make its report.

**LD 2129****An Act to Bring Certain Criminal Code Provisions Addressing Fines Into  
Conformity with Recently Amended Criminal Code Provisions  
Addressing Restitution****PUBLIC 367**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 2129 proposed to conform the provisions governing fines in the Maine Criminal Code to similar restitution provisions that were recently amended by Public Law 1997, chapter 413. In the Maine Revised Statutes, Title 17-A, compare section 1302, subsection 1 with section 1325, subsection 1, paragraph C and section 1325, subsection 2, paragraph D; compare section 1302, subsection 2 with section 1325, subsection 4; compare section 1303-A with section 1328, see also former section 1305, subsection 2; compare section 1303-B with section 1328-A; compare section 1304, subsections 1 and 2 with section 1329, subsections 1 and 2; compare section 1304, subsection 3 with section 1329, subsection 3, see also former section 1304, subsections 3 and 4; and compare section 1304, subsections 4 and 5 with section 1329, subsections 4 and 5.

The bill also proposed to enact Title 17-A, section 1301-A, which contains provisions regarding the use of a fine relative to a natural person convicted of a crime that parallel the provisions in Title 17-A, section 1152, subsection 2-B and in the 2nd sentence of section 1302, which would be repealed and replaced in this bill.

Finally, the bill proposed to add to Title 17-A, section 1329, subsection 3 the requirement that confinement for a default in payment of restitution be treated as nonconcurrent with any other judgment of conviction involving a term of imprisonment. As proposed, this same requirement that existed in section 1304, subsection 4 is repealed and exists in section 1304, subsection 3, paragraph D, which is enacted in this bill, relative to a default in payment of a fine.

This bill was submitted on behalf of the Criminal Law Advisory Commission.

***Enacted law summary***



This bill has been carried over to the Second Regular Session.

**LD 2196                      An Act Concerning the Formation of the Central Maine Regional Public Safety Communication Center      CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLWELL		

LD 2196 proposes to establish the Central Maine Regional Public Safety Communication Center to provide emergency communication services to participating state, county and municipal entities. The bill proposes to establish a governing council and a board of directors to establish policy and to provide administrative oversight.

This bill has been carried over to the Second Regular Session.

**LD 2214                      An Act to Reinstate the Death Penalty    ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PLOWMAN CAREY	ONTP      MAJ OTP-AM      MIN	

LD 2214 proposed to change the permissible sentences for the crime of murder under certain circumstances. The bill proposed to require that a separate sentencing proceeding be held for murder convictions, and that the jury for that proceeding must recommend either a sentence of life in prison or a sentence of death. As proposed, a sentence of death is permissible only when the murder caused the death of 2 or more people or when the murder was especially heinous, atrocious or cruel. As proposed, death sentences would be automatically reviewable by the Supreme Judicial Court and may be set aside if the Court finds the sentence excessive or disproportionate to the sentences imposed in similar cases

As proposed, if a person is sentenced to death and the Supreme Judicial Court affirms the sentence, the Governor is required to issue a warrant directing the warden of the state prison to execute the sentence. As proposed, the Governor must stay an execution if the person is mentally ill or pregnant, and if the Governor unjustifiably fails to issue a warrant, the Attorney General may petition the Supreme Judicial Court for such a warrant, and the Court is required to issue one. The bill proposed that a death sentence must be carried out through lethal injection.

The bill also proposed to make the death penalty subject to a referendum on whether the people of Maine want to reinstate the death penalty.

**Committee Amendment "A" (H-590)** was the minority report of the Joint Standing Committee on Criminal Justice. This amendment proposed to add a fiscal note and appropriation to the bill. This amendment was not adopted.

**House Amendment "A" (H-609)** proposed to prohibit a person who was less than 18 years of age at the time of the murder from being sentenced to death. This amendment was not adopted.

**LD 2237**

**Resolve, Authorizing the Commissioner of Corrections and the  
Commissioner of Administrative and Financial Services to Lease Up to 2  
Acres of Land at the Maine Youth Center**

**RESOLVE 53**

Sponsor(s)

Committee Report

Amendments Adopted

LD 2237 proposed to authorize the Commissioner of Corrections and the Commissioner of Administrative and Financial Services to enter into a lease with Youth Alternatives, Inc. for an emergency youth shelter. This resolve was not referred to committee.

***Enacted law summary***

Resolve 1999, chapter 53 authorizes the Commissioner of Corrections and the Commissioner of Administrative and Financial Services to enter into a lease with Youth Alternatives, Inc. for an emergency youth shelter.